

TASK FORCE ON PUBLIC DEFENSE
LISTENING TOUR - INDIANAPOLIS
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February 9, 2018
Indianapolis, Indiana

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2
3 JUDGE TINDER: Good afternoon. Welcome,
4 everybody. Thank you so much for coming.

5 I will try to be brief because we've labeled
6 this a listening session, not a talking section, so
7 we're here to listen. Most importantly, perhaps,
8 we've got coffee and some treats up here, including
9 Rice Krispies bars, which are very good, by the
10 way. You are welcome to them at any time.

11 I'm John Tinder. I am chair of the Indiana
12 Task Force on Public Defense. And with me we have
13 Justice Goff to my left, Jeff Papa to my right,
14 Larry Landis, and we've got Mary Willis, Judge
15 Willis with us here today, as well as Professor
16 Joel Schumm, all task force members, and there are
17 about eight others. I think a total of 17 of us
18 were appointed to this task force by the Public
19 Defender Commission.

20 The appointments were made I think sometime in
21 the middle of August, and shortly thereafter
22 meetings were set to take place over the course of
23 about the next nine months, the target being
24 getting a report back to the Public Defender
25 Commission by August of 2018.

1 I came on the scene a little bit later.
2 Originally, Judge McKinney from the District Court
3 was going to chair the committee, but his tragic
4 death, quite unexpected, left that seat vacant. I
5 decided to sit in for him on this, and it's been a
6 very interesting process.

7 We've had about four meetings so far, and this
8 would be really the second of our listening
9 sessions. On February 9 we met with, gosh, it was
10 about 25 or so chief public defenders from large,
11 medium, and small counties. And we plan to, after
12 today, have about four more of these listening
13 sessions, as well as I think we've got four or five
14 more meetings ahead of us, all of which you're
15 welcome to.

16 What was the cause for this task force? What
17 was the initiation? It was a series of reports
18 that came from different sources, one from the
19 Sixth Amendment Center that you may be familiar
20 with, issued in I think 2016, raising some very
21 serious questions about indigent defense in
22 Indiana, funding for it, adequacy and so forth, as
23 well as a planning grant from the Office of
24 Juvenile Justice and Delinquency Prevention,
25 raising questions about how youth in the

1 delinquency system in Indiana are being
2 represented, and in some cases not being
3 represented. And a series of other criticisms have
4 raised concerns by the Public Defender Commission
5 on ways that we can improve the Public Defender
6 system. So that's our goal.

7 We were appointed by that commission to take a
8 big look at all aspects of public defense, not only
9 in the criminal sector, but as well in matters of
10 CHINS and termination of parental rights,
11 involuntary civil commitments, in any respect where
12 a person's life or liberty is at issue and public
13 defense is necessary.

14 So we are taking a big look at a big picture
15 we have divided into a number of subcommittees,
16 focusing on certain areas, and we've been hearing
17 from experts in the area.

18 Each of you, by the way, will be emailed after
19 this with a link to our website that has many
20 resources listed, as well as an opportunity for you
21 to make written submissions. And they can be sent
22 by email, and that will be part of our records. So
23 that we consider, for example, if today you don't
24 get enough time to say everything you want to say,
25 or you think of things you want to say later, we

1 would love to receive written submissions as well.
2 So please keep that in mind.

3 I think our experiences as task force members,
4 it was intended that they come from a wide range of
5 experiences, and it is just that. We have some on
6 the task force who have been public defenders. We
7 have some who have sat as trial judges, appellate
8 judges. We have practicing attorneys. We have
9 state legislators. We have a representative of the
10 Governor's office. So it's a very diverse series
11 of backgrounds, and we come together to try to make
12 the public defense system better.

13 So today's session is an opportunity for you
14 to help us do that, and don't be surprised if we
15 make an effort to get back with you to have you
16 elaborate on things that you tell us.

17 I want to give everybody a chance to say what
18 they want to say today, but keep in mind written
19 submissions are strongly encouraged and can be even
20 more elaborate than what you might be able to say
21 here.

22 Now, we do have a court reporter, the very
23 talented Kate Andrews, who will be taking things
24 down not for purposes of so you can take an appeal
25 from what we do. The main purpose is for any task

1 force members who can't be here, so they can get
2 the information that's provided, as well as sort of
3 keeping track of things so we can go back and
4 follow up.

5 So as you speak, you're welcome to identify
6 yourself. We would appreciate that. But if it's
7 something you want to tell us in a confidential
8 way, you can do that. So if there is a particular
9 judge or particular practice you want to criticize
10 and not attribute to you or your office, we
11 understand that. It's not to put you in a bad
12 spot. It's to help us gather and obtain
13 information.

14 So with that we have a number of people who
15 have indicated they do want to speak, and there
16 will be open mike time as well and questions and
17 dialogue. But I want to be able to get through
18 everybody who signed up first, and then we'll open
19 it up to anyone else who might want to speak.

20 So with that I'd like to call on Jon Little
21 first. Jon, where did you go? Jon and I spoke
22 just a little bit. He may have a more elaborate
23 written presentation to follow, but he had a number
24 of things he wanted to say today.

25 MR. LITTLE: Yes. Thank you, members of the

1 committee. My name is Jonathan Little. I practice
2 here in Indianapolis. We filed a complaint about
3 the Johnson County case that's on its way to the
4 Supreme Court right now. I just want to summarize
5 some things that I've observed in my practice
6 around Indiana in different counties.

7 In Hancock County, on Mondays and Tuesdays
8 guilty pleas are done at initial hearings via video
9 with no defense attorneys present or public
10 defenders of any sort present in the room. Foreign
11 nationals have no ability to call consulars. There
12 is no interpreter present.

13 I've had clients go seven weeks between arrest
14 and initial hearing without ever seeing a judge.
15 I've watched a deaf woman proceed without counsel
16 and without an interpreter.

17 On numerous occasions I've witnessed
18 prosecutors directly negotiating with defendants,
19 making misrepresentations about, you know, if you
20 plead guilty today, we'll let you out. I've seen
21 the judges back the prosecutors up on those
22 statements, when a quick check of my case shows
23 that those people are in fact held in other
24 counties, and they won't be getting out. They will
25 just be getting transferred.

1 My concern there, a lot of these initial
2 hearing guilty pleas excuse the numbers of
3 appointed counsel that are reported to the Supreme
4 Court. Because those people are in fact never
5 appointed counsel, so it will never show that
6 Hancock County needed "X" number of defenders.

7 In Hamilton County, another county where
8 judges hire public defenders as direct contract
9 employees of the judge -- and I'll include
10 contracts in my written submission. They have
11 contracts in all the counties -- the public
12 defenders who are employed by the actual judge will
13 contract with more than one judge. So they'll have
14 contracts in excess of a hundred percent of their
15 time, and then they'll have a part-time practice,
16 you know, private practice on top of that.

17 In Allen County, part-time public defenders we
18 found carrying at least 1200 misdemeanors a year
19 and then having a private practice.

20 In Johnson County, direct contract with the
21 judges, no interpreters, direct negotiation with
22 defendants by the prosecutors. And if you appeal
23 in Johnson County in felony court, you are assigned
24 the daughter of the public defender that you had in
25 your cases.

1 So that's just a quick rundown. All of these
2 things in Hancock and Johnson County have been
3 recorded by reporters from NPR; so there's audio
4 available as well. And their notes and our audio
5 and the court transcripts, and I will include that
6 stuff in the written submissions.

7 JUDGE TINDER: Thank you, Jon.

8 Questions from task force members? All right.
9 Thank you. We look forward to your written
10 submission as well.

11 MR. LITTLE: Thank you.

12 JUDGE TINDER: We have followed the paper on
13 the litigation. Kim, if I'm not mistaken, we've
14 got copies of briefs and things of that nature.

15 MS. TANDY: Yes, we have.

16 DR. PAPA: On your point about the foreign
17 nationals, are you saying they've never had a
18 chance at any point to contact the consulate from
19 their country?

20 MR. LITTLE: Right. What they do in central
21 Indiana in all the counties, they set the Hispanic
22 last names on the same dates, and then they have
23 ICE come at that time. And so when the person is
24 arrested, between the date of arrest and then when
25 they are deported, so it varies in counties as to

1 when they set them up, they never get to talk to
2 anybody from their consulate.

3 DR. PAPA: At any point?

4 MR. LITTLE: At any point.

5 MR. LANDIS: What about on the guilty pleas?
6 Are they advised of doing guilty pleas without
7 being advised of the collateral consequences of the
8 guilty pleas?

9 MR. LITTLE: Right. And what NPR and I have
10 witnessed in Hancock County numerous times was the
11 judge would say if you plead guilty today, I'll
12 take it easy on you. And those people are in
13 custody in jail via video court. And so then they
14 plead guilty, and they are brought over, and they
15 do the formal guilty plea without counsel. And
16 that happens on Mondays and Tuesdays in Hancock
17 County.

18 JUDGE TINDER: Thank you.

19 Jill Johnson. Jill, you indicated that you
20 have ideas about juvenile justice reform that you'd
21 like us to know about.

22 MS. JOHNSON: Thank you, yes. Thank you to
23 the members of the task force. I'm Jill Johnson.
24 I am the Juvenile Division Chief in the Marion
25 County Public Defender Agency. I also do

1 collaborative work with our agency and the Indiana
2 Public Defender Council. I am able to assist with
3 the Indiana Juvenile Defense Project in providing
4 statewide training to juvenile court defenders.

5 I know you heard this morning, most of the
6 members of the Task Force heard from Tim Curry and
7 Amy Korozos regarding the importance of
8 specialization in juvenile defense. I'd be happy to
9 answer any questions or talk about that, but I
10 think for purposes of your time I'd like to talk
11 some this afternoon about how in Marion County
12 we've been able to move the scale of justice by
13 providing high quality juvenile defense
14 representation, and what I'm seeing and what I'm
15 hearing from my colleagues through the statewide
16 work that we're doing about the challenges that
17 they are facing.

18 Tim Curry mentioned this morning the Indiana
19 assessment on juvenile defense that took place in
20 2006, and a lot of information was brought to light
21 about children, the large number of children
22 proceeding without counsel and concerns that were
23 raised as it related to the representation they
24 were receiving.

25 I'll be the first to say at that time Marion

1 County was not an anomaly to that. We were facing
2 a lot of those same challenges and those same
3 struggles. So I just want to talk a little bit
4 about how we got from that point to where we are
5 because I think that's important to the task force
6 when making a decision about what juvenile defense
7 should look like.

8 In 2004 our office had five full-time public
9 defenders, who were drowning in the highest
10 caseloads that we had in a very long time. Our
11 office recognized that and came into compliance
12 with commission standards by bringing on eleven
13 full-time public defenders.

14 JUDGE TINDER: In addition to the five?

15 MS. JOHNSON: Yes. But it didn't stop there.
16 Our staffing needs weren't just attorneys. We also
17 were able to bring on investigators, paralegals,
18 and social workers, who remain a critical part of
19 the juvenile defense team. That took place by
20 recognition of our administration, led by Bob Hill,
21 in seeing that we needed that support both in the
22 courtroom and out of the courtroom in order to
23 provide high quality representation.

24 But I do have to say that it wasn't just
25 increased staffing alone that allowed us to push

1 the envelope. We also had to have a cultural
2 change within our division. I work with colleagues
3 who our average length of time in the juvenile
4 division is ten years; so these aren't people that
5 are just coming and using it as a training ground.
6 But our representation now looks very different
7 than it did ten years ago.

8 I'll just give you a few examples of that.
9 Ten years ago -- I've been with the office eleven
10 and a half -- so around that time frame we would
11 show up for initial hearings. We'd sit in the back
12 of the courtroom. The court would appoint us. We
13 would sit down next to a child and say "Hi. I'm
14 your public defender." And then we would proceed
15 with the hearing, with no additional conversations
16 and paperwork in front of us.

17 Now we meet with every child in advance. I'm
18 not talking just outside of the courtroom door. We
19 meet with every child in advance before hearings to
20 gather information about them, provide information
21 to them, answer their questions, and help prepare
22 them for their hearings.

23 Ten or eleven years ago we would sit in the
24 courtroom, and we would make arguments about what
25 the child needed in relation to their care and

1 rehabilitation. Now we present evidence, not
2 arguments, evidence, that includes information
3 about the child and what their express interests
4 are, what they want to have happen. We support
5 that with psycho-social assessments and safety
6 plans from our social workers. We support that in
7 testimony and reports from experts and
8 psychologists that we're able to hire. We are able
9 to present evidence to the court and make sound
10 arguments for waiver and for dispositional
11 hearings.

12 In the past our participation terminated at
13 the point of disposition; so a child would go on to
14 probation or go into residential treatment, and
15 their representation would end at that time. They
16 had nobody who would sit with them when they would
17 come back for review hearings. We wouldn't appear
18 again until a violation was filed.

19 We've changed that. We represent all children
20 until their case closes in juvenile court. So what
21 we're able to do is we're able to intervene. We're
22 able to prevent a lot of those violations from
23 coming about. We are able to remain in contact
24 with children who are in residential facilities and
25 advocate for their early release.

1 So I point out these examples, and you may be
2 thinking, well, isn't that what attorneys are
3 supposed to be doing, meeting with their clients,
4 present evidence, hiring experts, consulting with
5 their clients and representing their needs? But,
6 unfortunately, I am finding as I'm talking to
7 colleagues throughout the state, they are much more
8 challenged in being able to do that.

9 I don't believe, from most of the folks that
10 I'm working with, that it has anything to do with
11 the lack of desire to provide high quality
12 representation. It has to do with lack of
13 resources and lack of support.

14 Through the Juvenile Defense Project I've
15 talked with over a hundred attorneys in various
16 parts of the state, and I'm meeting with people
17 that are very interested and motivated in providing
18 specialized juvenile representation. But I'm also
19 meeting with people that don't have paralegals,
20 that don't have investigators, that don't have
21 funds to hire experts. I'm meeting with people
22 that juvenile defense is a small part of their
23 practice, and so they have to manage representing
24 these juvenile clients while they are overwhelmed
25 with their criminal clients and clients with

1 increasing CHINS and TPR cases. So often our
2 juvenile clients, who come to you with cases with
3 these consequences, come last.

4 So I just, I just point all of this out and
5 would just like to give a few comments as it
6 relates to ways that we can equalize indigent
7 defense representation for children in our state.
8 I think we need to have training requirements, and
9 we need to have standards in place for attorneys
10 who provide representation to children. Right now
11 we have commission standards that are pretty broad.

12 For example, to represent a child facing
13 waiver to criminal court, perhaps the most severe
14 consequence a child in the juvenile system could
15 face, the requirement is you've been a attorney for
16 three years, and you've gone to trial in two or
17 more cases of that same level. That doesn't mean
18 you've ever represented a child in juvenile court.

19 I believe that we need to have in place
20 support so that attorneys can meet these standards.
21 We need to have some financial motivation for
22 attorneys to want to specialize in juvenile court
23 defense and want to continue in this area of
24 practice and not just view it as a training ground
25 to move on.

1 We need to have access to resources, those
2 support staff that I talked about that are critical
3 to our work -- paralegals, social workers,
4 investigators. And then we need to continue to
5 build our community of juvenile defense.

6 Up until this last year, when I've been
7 working with the Indiana Public Defender Council,
8 we were a very scattered group. If you were to ask
9 me who the attorney is who does juvenile defense in
10 the next county, I would have no idea. But we've
11 reached juvenile attorneys in over 50 counties, and
12 we are really growing our community.

13 And I think of those juvenile defenders that
14 I've been in contact with in rural counties, where
15 they are the sole practitioner in that county, they
16 have nobody to reach out to and talk to about their
17 case and come up with different ways to approach
18 the challenges that they face. And, fortunately, I
19 feel we are providing some support and resources
20 there, and so I am hopeful that we can continue in
21 that work as well. Thank you.

22 JUDGE TINDER: Ms. Johnson, within your office
23 do some of your juvenile clients later need CHINS/
24 TPR representation, or do they come to you after
25 that? How does that work?

1 MS. JOHNSON: Are you talking about whether
2 they are also a child who is deemed to be a child
3 in need of services?

4 JUDGE TINDER: Right, yes.

5 MS. JOHNSON: Yes. We do have many clients
6 that are, we call them dual status; so they are
7 active in a criminal case and they are active in a
8 CHINS case. Unfortunately, children in Child In
9 Need Of Services cases are not appointed attorneys
10 in my jurisdiction. In those unique cases where
11 they are in dual status, our court has developed a
12 unique court where their cases will be heard
13 together; and, therefore, our attorney is present,
14 representing them on the delinquency case and can
15 advocate for them.

16 JUDGE TINDER: You don't represent on the
17 CHINS.

18 MS. JOHNSON: But if the child is no longer
19 active in the delinquency case and has a CHINS
20 case, those children don't have express attorneys
21 representing them.

22 JUDGE TINDER: Other questions?

23 MS. JOHNSON: Thank you very much.

24 JUDGE TINDER: Thank you. And, of course,
25 written submissions would also be greatly

1 appreciated as well.

2 Vicky Bailey.

3 MS. BAILEY: Thank you for the opportunity to
4 speak to you today. I am as of yesterday the
5 Assistant Appellate Division Chief for the Marion
6 County Public Defender Agency, so a bit of a
7 promotion.

8 JUDGE TINDER: Congratulations.

9 MS. BAILEY: Thank you very much. So I've
10 worked as a federal public defender. I've worked
11 as a federal public defender representing death row
12 inmates in federal habeas. I've worked as a child
13 attorney, representing parents in CHINS and TPR
14 cases, and as an appellate attorney representing
15 litigants in criminal cases, OAPs, delinquencies.
16 You name it, I've done it. And so it's with that
17 broad experience that I wanted to share my thoughts
18 with you on some things I've seen that would be
19 relatively cost effective ways to improve the
20 quality of representation for some of our clients.

21 So as I'm assuming most of you know, under
22 Criminal Rule 24 attorneys representing clients in
23 capital cases have ongoing training requirements.
24 Every two years they have to attend 12 hours of
25 training related to their work as capital

1 litigators.

2 There are no ongoing training requirements for
3 public defenders in other areas of representation.
4 For example, appellate attorneys, to be qualified
5 under commission standards, have to attend one
6 six-hour training program once ever, and that's it.
7 I can tell you that the appellate rules have
8 changed so much in just the last five years that
9 they are virtually unrecognizable. And so if you
10 did your six hours of training a decade ago and
11 haven't updated it since then, you're going to
12 really be behind the times, and you're not going to
13 be the best advocate for your client. And so I
14 think that needs to change.

15 One way I thought this perhaps could be
16 accomplished would be to change the commission
17 standards to write additional training requirements
18 so that people could be in compliance that way. Of
19 course, that may require additional resources from
20 the legislature, but our clients deserve it.

21 In terms of the trial attorneys, both
22 representing criminal defendants and in delinquency
23 cases, as an appellate attorney, when I get the
24 records in these cases, I get to review, of course,
25 everything that was done by the trial attorneys.

1 And I can tell you there are two particular areas
2 where I have seen deficiencies and where I think,
3 perhaps it might not be the most obvious areas, but
4 where I think additional training would be really
5 helpful.

6 First, in legal writing and research.
7 Appellate attorneys, we do that all day every day;
8 so that's not unusual for to us do. But attorneys
9 file substantive motions. They have to be up on
10 the current laws. And, frankly, there's no
11 training, there's no real focused training for
12 trial public defenders on legal research and
13 writing in this state. It's certainly not a
14 requirement, and I think it should be.

15 Another area that I think could be really
16 helpful to our clients is if training was required
17 in the area of negotiation and conflict resolution.
18 The reason I think that is this: Most cases in
19 this state are resolved through guilty plea or
20 admission. And so for most of our clients, what
21 we're going to be able to do to help them is help
22 them get the best possible plea agreement and best
23 disposition or sentence on their case.

24 We're not trained as public defenders how to
25 do those sorts of things. And I think that

1 including that in part of the training, we would
2 see better results for our clients. We get people
3 who, the plea agreements that we see or that I see
4 in a lot of my cases, they are just boilerplate.
5 They are boilerplate printed out by the state.
6 There is no counteroffer, no negotiating, no
7 nothing. This is what the state offered, and this
8 is what the client signed, and it's a done deal.

9 I think we can do better, and I think we need
10 to teach our attorneys how to do better. And I
11 think that this task force could encourage the
12 commission to improve the training standards and
13 requirements for public defenders.

14 You asked me to keep it to five minutes.

15 JUDGE TINDER: I did.

16 MS. BAILEY: So I can submit the rest to you
17 in writing, if there are no questions.

18 JUDGE TINDER: I do have a question. In terms
19 of who should provide the training, where should
20 public defenders look for that type of training,
21 both writing, research, as well as conflict
22 resolution, mediation, negotiation?

23 MS. BAILEY: Well, so I think there are two
24 possibilities. I mean, the commission standards
25 require, my reading of them, that when a county

1 board is set up, one of the things that the agency
2 or office is to do is to provide training. So that
3 could be a requirement put on the local agency, if
4 there is one, to provide specific areas of
5 training. Because now it's just training in
6 general. No specific requirements about what type
7 of training has to be offered.

8 I know a lot of counties are outside the
9 commission standards, so another option would be to
10 do localized training through the Public Defender
11 Council. I know they are doing some of that. They
12 are going around to counties with different types
13 of localized training. Which is a really good idea
14 because local practices and mores are different; so
15 what works in some places isn't going to work in
16 others.

17 Another option would be to approach the state
18 agency that handles CLE and see if we can get a
19 waiver of some requirements for distance learning
20 so that public defenders could do more online
21 training in terms of research and writing. Those
22 are some thoughts I had.

23 JUDGE TINDER: Great.

24 PROF. SCHUMM: Does your office have resources
25 for training to send you places outside of

1 Indianapolis or even outside of Indiana?

2 MS. BAILEY: Not so much. We are the biggest
3 office in the state. I attended a training last
4 fall in Long Beach, California, that I had to apply
5 for a scholarship for. It was a great opportunity.
6 I took what I learned there, and I came back, and I
7 passed it along to all my colleagues.

8 But if it's not an in-state training, where we
9 can drive and hopefully don't need a hotel, the
10 resources are just not there. We do a lot of brown
11 bag training. We have lunchtime trainings. We do
12 so many a year so that everyone can get their CLE
13 requirements met.

14 JUDGE TINDER: Do you make any of your
15 training available to public defenders in other
16 counties?

17 MS. BAILEY: I don't know that. I do know all
18 our training is available to our contract
19 attorneys. I think it's possible that other public
20 defenders can come for like just a nominal fee.
21 But, no. And perhaps that's something we can look
22 into making it more broadly available.

23 But cost is an issue. And so, again, the
24 distance learning, remote learning requirements
25 imposed by the CLE requirements, it's very small.

1 You can only do a few hours a year. So if those
2 were changed or modified or some sort of exemption
3 given for public defenders, I think it would open
4 up a lot more cost effective opportunities for
5 training in more areas that could save counties a
6 lot of money and provide better representation.
7 Thank you.

8 JUDGE TINDER: Again, we look forward to your
9 written submission as well.

10 From P.A.C.E., Rhiannon Edwards.

11 MS. EDWARDS: Hello. Thank you very much.
12 I'm from P.A.C.E. That stands for Public Advocates
13 in Community Re-Entry. We are a not-for-profit
14 that only serves ex-offenders here in Marion
15 County.

16 I just want to speak to you all today just to
17 kind of give a perspective from the clients that we
18 serve what changes we think would be effective for
19 the clients that we serve.

20 Everyone that we see has a felony conviction,
21 so they've already come through the system. What
22 we see with a lot of them is the majority of them
23 don't understand their sentence, their plea
24 agreement, whatever they've signed. They really
25 have not a lot of understanding of what that means,

1 in particular around modification. They all want
2 to modify. They all feel like they are jailhouse
3 attorneys, and they feel like they have the
4 knowledge to do so.

5 JUDGE TINDER: They are on parole status at
6 this point or work release?

7 MS. EDWARDS: They are on work release. They
8 are on parole. They are on probation. Most of the
9 ones that we see modifying are not parole. They
10 are on work release or on PTSD from the Department
11 of Correction, and they are all modifying. They
12 are all modifying on their own.

13 I don't know whether or not all of them are
14 even eligible for a modification. I don't think
15 they even know that. So I know there is a lot of
16 time and resources spent on their transport to
17 court, the clerk, all that time around
18 modification.

19 It's very hard to understand, you know,
20 sentencing and the time cuts and all that just for
21 a regular person, let alone for them. But I would
22 just love to see a little bit more focus around
23 making sure they actually understand their
24 sentence, making sure they actually understand what
25 that means, so that us, as community providers,

1 we're not going to do any legal assistance, but at
2 least if we know a little bit, we know how to
3 direct them, we know what to do with it.

4 The other thing that I think is really
5 important is engaging the community organizations
6 with public defenders more. We do that a lot only
7 because we have certain contracts where we're
8 working within, you know, behavioral health court
9 or reentry court. But for the most part that does
10 not happen on a regular basis.

11 So my client gets a technical violation, for
12 example, and they are back with their public
13 defender, and they are fighting that. We'll never
14 get contacted about that. So there is information
15 we may have about services that they are provided,
16 services that they are eligible for. I'm speaking
17 specifically around technical violations. Not so
18 much new charges, but around technical violations,
19 how can we help to mitigate.

20 JUDGE TINDER: Technical like failure to
21 report an address change?

22 MS. EDWARDS: Yes, address change, or
23 probation, they've not been compliant with
24 probation. This is again primarily probation,
25 community corrections. Not so much parole because

1 that's a whole different process, obviously. Just
2 seeing how we can kind of work together a little
3 bit better for the betterment.

4 I know a lot of counties don't have an
5 organization like ours. But especially for Marion
6 County, we are serving at least 1500 people a year.
7 And so if there is a way we can help with
8 information or sentencing. You know, why did this
9 person go to a work release when we know his
10 history of drug abuse, and we know the amount of
11 drugs that are in the work release center, can we
12 maybe help give some information so maybe a
13 different sentence is applied.

14 That's pretty much what all I wanted to share,
15 kind of our understanding from our perspective.

16 JUDGE TINDER: Questions?

17 Ms. Edwards, in terms of sentencing
18 clarifications, so say a client is confused about
19 the effect of a condition or something like that on
20 a probationary term. What do you do? Do you send
21 them back to their PD? Do you send them to the
22 court? What do you do with it?

23 MS. EDWARDS: We have staff that are IRAS
24 certified; so we can go into the system and try to
25 look a little bit. We will try to contact the work

1 release probation to figure it out. The biggest
2 question that they have is they are in work
3 release. How much time do I have to stay in work
4 release before I can modify home detention, or how
5 much time am I on probation at the end of my
6 sentence.

7 So I think they understand the big bulk of it.
8 I got 365 days. That's my sentence. But they
9 don't know what that means. They don't know how
10 much time is in each area and when they're eligible
11 to kind of drop down.

12 We see this a lot. We have a contract with
13 the work release here in Marion County, and all the
14 gentlemen in the work release believe they are
15 eligible for a modification. They are all
16 modifying. And, honestly, I don't really know how
17 many of them really are, if they need to wait a
18 while. We don't know. We're not lawyers. Some of
19 them do get their modifications that they do on
20 their own, but not all of them.

21 JUDGE TINDER: Maybe there are some to whom it
22 was explained, but they are looking for maybe a
23 better explanation?

24 MS. EDWARDS: Some of them, yeah. But most of
25 them, they're just dead set. "Yeah, I've got 25

1 more days." Well, how do you know that? And then
2 they find out that they have a year longer. So
3 there is a definite disconnect.

4 A lot of them, I think they think they know it
5 all; they've been in the system for a while. But I
6 do think for many of them there is a definite
7 disconnect in their comprehension of what they're
8 signing onto.

9 JUDGE TINDER: Other questions?

10 Thank you so much. And if you want to submit
11 anything in writing, please feel free to do that as
12 well.

13 MS. EDWARDS: Thank you.

14 JUDGE TINDER: All right. Chris Shema from
15 Vigo County.

16 MR. SHEMA: Judge, I promise you I am not
17 stalking you.

18 JUDGE TINDER: That's all right.

19 MR. SHEMA: Thank you, Your Honor. Actually,
20 I'm here more by proxy dealing with the CHINS
21 issue. I was listening very closely to Mr. Little.
22 I would say that one of the concepts that I was
23 asked to bring to your attention on behalf of the
24 people doing CHINS was somewhat similar to him in
25 that when you're dealing with an agency that has

1 far more resources than we do, and you get to the
2 game late, the decisions have already been made.
3 The most important decisions have already been
4 made, which is removal of the child. There's not
5 an attorney present at those initial hearings.

6 And I think that parallels the concept that
7 we've been talking about in the Public Defender
8 Council for a while, this issue of, unlike in
9 federal court, Your Honor, where it would be
10 unheard of for somebody to lose their liberty
11 without being promptly brought before a magistrate
12 and have a detention hearing with counsel present,
13 the way it tends to work in state court is a
14 decision is made to take that person into custody.
15 The state will be given three days to formalize
16 charges, and many courts are of the mind that
17 there's no obligation to provide counsel until
18 charges are formalized.

19 If you are dealing with a holiday weekend or a
20 period like Thanksgiving, you could have someone
21 sitting in jail for seven days before they are even
22 appointed counsel. By then they've lost their job.
23 They may have lost their home. And more
24 importantly perhaps even than that is their local
25 friends at the drug task force, or whatever, have

1 had them marinating in the jail for three or four
2 days where they can come have them make
3 incriminating statements without the benefit of
4 counsel.

5 I think that the worst injustices I think I've
6 seen over the 20-some years I've been practicing
7 here all happen right at the start, right at the
8 very beginning because there is no counsel
9 appointed. There is nobody there to protect their
10 interest.

11 I don't do CHINS cases. I was asked to bring
12 that to the attention of the board; so I'll leave
13 it to the people who do that to address that
14 concern further.

15 And I did want to follow up, Judge, with the
16 question I raised last time about the concept of
17 merit board commission protection for public
18 defenders. I do find it amazing that firefighters
19 and law enforcement officers have more statutory
20 protections as far as doing their job than we do.
21 And no one, no one who does this kind of work
22 should ever find themselves in a position where
23 they have to make a choice or feel like they have
24 to make a choice between doing their job and
25 keeping their job.

1 And as a member of the Public Defender Council
2 who was on the outreach committee, I've heard from
3 attorneys throughout the state where they feel like
4 that's their biggest problem. They are trying to
5 do their job. And whether it is a perception they
6 have that is flawed, or whether it is real, they
7 perceive that sometimes, if they are too strong an
8 advocate, if they are fighting for experts, if they
9 are fighting for the resources, they are going to
10 be penalized because they are like Oliver Twist,
11 asking for too much. Thank you.

12 JUDGE TINDER: So the commission that selects
13 public defenders should be independent of the
14 judiciary; so it's not the judge actually hiring
15 the public defenders?

16 MR. SHEMA: I think judicial input is
17 important, but it should not be controlling.

18 JUDGE TINDER: What would be, from your
19 perspective, the ideal appointing authority? What
20 would that consist of? What would that look like
21 to us?

22 MR. SHEMA: Judge, I can only tell you that
23 there are two models that I think are worthy. I
24 wish Monica Foster was here. I always enjoyed
25 practicing in front of Your Honor, and I enjoyed

1 immensely practicing in front of Larry McKinney. I
2 hope you don't take offense to that.

3 JUDGE TINDER: Not at all.

4 MR. SHEMA: I never felt like if I got into a
5 situation, and you know, Your Honor, sometimes as a
6 public defender you feel like, gee, there's a
7 prosecutor over there, but the guy I'm really doing
8 battle with is up on the bench. Okay? And having
9 that degree of professional independence I think is
10 important, and I sort of felt like I had that with
11 the CJA panel. Obviously, you guys had a lot of
12 authority.

13 But I can tell you that doing merit board work
14 in Terre Haute, I have had firefighters and police
15 officers who were up for being fired for purely
16 political reasons. And we were able to protect
17 their jobs successfully because the merit
18 commission said, no, we're not going to demote this
19 person or fire this person because of the local
20 politics of the land. And they do have statutory
21 protections that we don't have.

22 So with that I'll pass it on. Thank you, Your
23 Honor.

24 JUDGE TINDER: Any questions?

25 PROF. SCHUMM: I have one. So in Vigo County,

1 how would you all handle the situation Ms. Edwards
2 mentioned? If someone wanted to modify their
3 sentence, and they were former clients, are they
4 still your client? Or after sentencing are they
5 not your client?

6 MR. SHEMA: That is such a great question. It
7 depends on who you talk to, Professor. Most of the
8 time we don't even know about it. A lot of the
9 times the appearance of the attorney is withdrawn
10 once the sentence is entered.

11 It is a hole in the system that has not been
12 fixed because some people are filing modifications
13 on their own. Occasionally, a judge will pick up
14 the phone and say, hey, do you want to come over
15 and handle this modification.

16 It does not factor into our numbers as far as
17 our caseload requirements. Many public defenders
18 sort of chafe at the idea of being asked to do more
19 and more and more. And we are supposedly under the
20 system that monitors our caseload, but you are not
21 counting a lot of what we do. And that would be a
22 perfect example of one.

23 So it depends. It's just ad hoc. There is no
24 system in place to deal with modifications. And I
25 would say that while there is a system to deal with

1 probation violations, that's a similar issue,
2 because we talked about how numbers are counted.
3 It's one thing for the chiefs to say, well, we're
4 in compliance. We're in compliance. But we get no
5 consideration for probation violations.

6 And since Level 6 felonies will not go to the
7 DOC, in Vigo County our judges try very hard not to
8 send people to DOC. I personally have been
9 involved in as many as ten and eleven probation
10 violations on the same Level 6 or Class D felony
11 for which I get zero credit.

12 Now, I don't mind doing it. You know, it's my
13 job. I'm going to represent the person. But it
14 does seem like it's a flaw that that is not taken
15 into consideration when you are measuring caseload
16 restrictions.

17 Does that answer your question?

18 PROF. SCHUMM: Yes. Thank you.

19 JUDGE TINDER: Any other questions for
20 Mr. Shema from Vigo County?

21 I'd like to call on Stacy Uliana now, who has
22 submitted a written submission on part of the very
23 subject of Mr. Shema's comments regarding the need
24 for independence by the public defender and the
25 courage it takes to be aggressive for your client

1 when your appointing authority may be the person
2 you're making that argument to.

3 MS. ULIANA: Thank you, Judge. First of all,
4 I wasn't ready to speak, but that's all right. I
5 submitted a written submission for a reason.

6 JUDGE TINDER: I have never met a public
7 defender who wasn't ready to speak.

8 MS. ULIANA: I will sum up the courage.

9 I agree with everything I've heard thus far.
10 The biggest issue that stuck out to me, as I've
11 helped public defenders around the state for the
12 past 20 years, is the independence. There are so
13 many times I've had public defenders call me on the
14 phone and be upset. You know, "I have this person
15 that really needs help. I need a mental health
16 expert, but I can't do that." I'm like "Well, why
17 can't you do that? Here is the case law. Go to
18 your judge. I'll even give you a motion. Fill in
19 your client's name. Go to your judge and ask."

20 "I can't do that in my county. We don't do
21 that in my county." And they are really afraid of
22 their job. And I don't know if it's their own
23 perception or it's a reality, but this happens
24 mostly in rural counties where people know one
25 another, and there is an environment there that you

1 get along to move along. And the person who gets
2 the cases going, who costs the least, is the person
3 who is going to get the public defender job. And
4 they are going to stay in that public defender job
5 forever, and then their children are going to get
6 that job. And nothing is ever going to get better.
7 Nothing is ever going to change.

8 I'm in Johnson County, and that's happened in
9 my county, too.

10 JUDGE TINDER: So how do we get to that level
11 of independence? What sort of array of appointing
12 authorities should there be rather than having the
13 judges make direct appointments, direct contracts
14 with counsel?

15 MS. ULIANA: That's a hard question. I mean,
16 right now we have the boards, which I think work in
17 a lot of places. But in some places they may end
18 up doing the same thing that judges do, especially
19 when it comes to being cost efficient.

20 I think the boards is where it starts. There
21 is always the idea of a state public defender
22 system. I don't know if you all are thinking about
23 that. I know Kentucky has one. And I'm sure
24 there's a downside to it, but the upside may be
25 they are completely independent.

1 Also, another upside is training. I heard
2 from Victoria Bailey about the training. The one
3 thing they've got going in Kentucky, before you
4 even become a public defender, you have to go to a
5 week or two-week long training where you stay
6 there, and you learn.

7 You go through all these different segments.
8 For instance, you'll have a two-hour segment on
9 bond hearings, and you stand up and pretend you are
10 in a bond hearing. Same thing with a suppression
11 hearing. That's some amazing training, and it's
12 required to be a public defender because they have
13 a state public defender system.

14 I can't tell you that I am versed enough on
15 the subject to say that that's where we should go,
16 but I think it's something that you should
17 consider. But the more independence from the
18 judiciary the better.

19 I think there are a lot of good, fine judges
20 out there, but I think we all get used to the
21 environment we're working in. And if you have
22 someone who's constantly making it more difficult
23 to get a case to completion, then they are going to
24 be cut out of the system.

25 And you need public defenders to be that thorn

1 in the side. I mean, I don't know why we all chose
2 this profession, but there is something about us
3 that likes to be a thorn in the side, and you need
4 us.

5 So I guess my observation would be we need a
6 better environment for public defenders to find the
7 courage to stand up and say what they think is
8 wrong. And we need better caseloads, always better
9 pay, but also to feel free and safe that you can
10 stand up and say "objection," and the most you're
11 going to get is maybe an eye roll and an overruled.

12 Do you have any other questions?

13 PROF. SCHUMM: I do. You've done appeals all
14 around the state, different places. So what do you
15 see as the problem or solution for appeals? Do you
16 think it works the way it is now, where you get an
17 appointment from whatever county? Do you think
18 that allows feedback and resources for those
19 lawyers in those counties to ask you for help, or
20 they don't really get to you until after you get
21 the cases? What do you think is the answer for
22 appeals? Do you think it works well now the way it
23 is?

24 MS. ULIANA: I think appeals should be the
25 first place we should get a state public defender

1 system. The system now, I don't think it works at
2 all. I think appeals is the first race to the
3 bottom. They give the contract to the lowest
4 bidder, and the lowest bidder is going to do the
5 least amount of work. So that's the first problem
6 with appeals.

7 There is a wide array of competency in
8 appeals. I've read a bunch of appeals, helping
9 other attorneys. I think Marion County does a
10 great job, but there are some other counties out
11 there where you don't even know it's an appeal when
12 you read it. And that's not, that's not right.

13 And, also, if you get a system of statewide
14 public defenders, they can reach out to the trial
15 attorneys who can get a system of coordinating with
16 them.

17 Marion County does that really well. If they
18 have an issue they want to raise up, they'll talk
19 to their trial attorneys and say, hey, start
20 raising this issue in this situation. And then
21 they work with the appellate attorneys to preserve
22 the record and to create that record. I think that
23 would be a wonderful way to do it all over the
24 state and to bring some consistency to appeals.

25 Another problem with appeals is that a lot of

1 judges won't even pay for a transfer. So I have
2 had so many attorneys call me and say, "Well, I
3 don't want to do a petition to transfer, but my
4 client wants me to do one, and I'm not going to get
5 paid for it. What should I do?"

6 I'm like "Well, you have to do it. It's part
7 of the appeal." But a lot of the judges out there
8 don't think that's part of an appeal. So, yes, I
9 don't think the appellate public defense system is
10 as good as it could be right now. I think it could
11 get a lot better.

12 JUDGE TINDER: So maybe some judicial
13 education on the idea that the petition to transfer
14 is part of that appeal?

15 MS. ULIANA: Well, that would be great. And
16 maybe some judicial education on that people
17 shouldn't plead guilty at initial hearings, too.
18 That's another thing I've seen a lot. It's so
19 painful to sit in a courtroom, waiting for your
20 turn to be called, and see these people on video
21 who need to get out because they need to go feed
22 their families and get back to work, and they say
23 "Do you plead guilty or not guilty?" Which they
24 shouldn't even ask that in an initial hearing. And
25 they say, "Well, I'll plead guilty if I get out

1 today."

2 I've seen that so many times. They get out
3 today, but then they have a conviction forever, and
4 they never have an attorney look at it. So that's
5 another thing that if you were going to have
6 judicial education, it would be on that people
7 should not be pleading at the initial hearing.

8 PROF. SCHUMM: So what's the solution to that?
9 Part of the problem is the bail problem; right? If
10 someone is out, they are going to be less likely to
11 think they have to plead guilty. Is the solution
12 something like Criminal Rule 25 for adults? If you
13 are not going to hire a lawyer, if you're indigent,
14 that you can't plead guilty before you have a
15 lawyer appointed for you?

16 MS. ULIANA: No. I think it is not
17 encouraging people to plead guilty at initial
18 hearings, which is what's happening. Judges are
19 asking "Do you want to plead guilty or not?" I
20 think getting rid of bond, first of all, is one way
21 to get people out when they are dealing with
22 misdemeanors or low levels, but No. 2 is to not
23 encourage it.

24 If somebody really, really wants to plead
25 guilty, and you go through all the proper steps, I

1 guess that's their right and wait their turn. But
2 I see it going a step further, and it's a way to
3 clear your dockets. And if we're going to start
4 doing that and giving the people the option to
5 plead guilty and encouraging that at the initial
6 hearing, you need a public defender there.

7 Does that answer your question?

8 PROF. SCHUMM: Yes. I think you started with
9 hostility, but I think you maybe kind of agree that
10 it's good to have a public defender, especially in
11 felony cases before somebody pleads.

12 MS. ULIANA: Right. So you either have a
13 public defender or you jump start giving bond more
14 often to people who are put in that position.

15 MR. LANDIS: Since you go around and see a lot
16 of courts, how many or how often do you see public
17 defenders at the initial hearing prepared to be an
18 advocate for their clients?

19 MS. ULIANA: I don't think I've ever seen
20 that. Things may be changing with, you know, the
21 pilot project.

22 MR. LANDIS: But the right to counsel attaches
23 when?

24 MS. ULIANA: At the time of arrest,
25 Mr. Landis. It's in the Constitution.

1 MR. LANDIS: I'm just curious.

2 MS. ULIANA: Yes. It's not happening, and it
3 is a problem. I heard Mr. Little talk about it,
4 and I've seen it often.

5 JUDGE TINDER: Mr. Shema?

6 MR. SHEMA: Thank you, Your Honor. I just
7 want to point out, too, many judges around the
8 state, when you use the term, initial appearance,
9 they consider that to be the appearance after
10 charges have been formalized when people sometimes
11 have been sitting in jail four or five days. I
12 consider the term, initial appearance, to be the
13 first time they show up in court. But there is a
14 semantic problem.

15 Perhaps we need to, talking about judicial
16 education, if we call initial appearance the first
17 time they are brought into court after charges are
18 formalized, what are we calling that hearing that
19 we used to call a probable cause hearing that a lot
20 of judges don't even have anymore? I've seen
21 people pleading guilty the very first day they are
22 brought into court because they don't want to lose
23 their job; and they're told if you plead guilty,
24 we'll let you out today. So I just want to point
25 out that term, initial appearance, means different

1 things in different courts.

2 JUDGE TINDER: All right. Thank you.

3 Laura Pitts?

4 MS. PITTS: Good afternoon. Thank you very
5 much for letting me speak. I am one day into being
6 the major felony supervisor for the Marion County
7 Public Defender Agency.

8 JUDGE TINDER: Congratulations to you.

9 MS. PITTS: Thank you. I wanted to talk a
10 little bit about commission standards because I
11 think that's one area that great improvement can be
12 made. Currently, obviously, there are no standards
13 for misdemeanors. So there's no caseload
14 requirement for how many misdemeanors somebody can
15 carry. That's a big deal in a county like Marion
16 County where there are thousands and thousands of
17 misdemeanors. We can never, never fully staff
18 misdemeanor court the way it should be because
19 there are no commission standards. There's no
20 reimbursement, so we do what we can.

21 But a lot of people, I think, perceive
22 misdemeanors to be not such a big deal. But it is
23 a big deal because there are so many collateral
24 consequences to misdemeanors.

25 JUDGE TINDER: Are there standards such as ABA

1 standards or standards of a PD system in another
2 state or area that you could point to that audit
3 the misdemeanors that you look to?

4 MS. PITTS: It's not something that I've
5 personally researched.

6 JUDGE TINDER: Okay.

7 MS. PITTS: The other area that I think is a
8 problem with commission standards is major felony
9 cases, which obviously is primarily what I do.
10 Major felony cases are all weighted the same.

11 For example, a Level 5 felony counts as one
12 case, and a murder counts as one case. To sort of
13 illustrate why this shouldn't be and why this is a
14 problem, I looked at some of my cases that I
15 recently closed out.

16 I looked at two of my last murder cases of how
17 many hours I spent on those cases. I spent 62
18 hours on one and 45 hours on another. I looked at
19 two Level 5 cases that I recently closed out. One
20 was a pretty run-of-the-mill domestic. One was a
21 habitual traffic case. I spent 5.9 hours on one
22 and nine hours on the other.

23 There is a huge difference on how much time
24 I'm spending on a murder case versus a Level 5
25 case, but they count the same. They are one case

1 in my limit of how many cases I'm allowed to carry.
2 And I don't think that's fair or that's right
3 because so much more work is going into higher
4 level cases.

5 JUDGE TINDER: So, again, what should the
6 ratio be, or what other ratio should we look to
7 that aren't currently being used as the standards
8 here?

9 MS. PITTS: I think one way that you may be
10 able to look at it is we, and I don't know that
11 everybody does this, but in our county we keep
12 track of how many hours we spend on our cases; so
13 we actually have those generally by level. I think
14 you could look at using our data to see how much
15 time are you spending on a Level 5, how much time
16 are we spending on a Level 1, to sort of see what
17 that ratio is. And that could be a way to sort of
18 come up with a calculation of does a murder count
19 as two cases versus a Level 5 as one, or what have
20 you. I think that's something you could use.

21 JUDGE TINDER: Thank you.

22 MS. PITTS: The other thing I wanted to say,
23 which was kind of said earlier by Mr. Shema, is
24 probation violations. Those don't count. The only
25 time we get counted for those is if private counsel

1 represented the person on the underlying. Then
2 we'll count the case. But all of our PDs in all of
3 our courts have to do probation violations.

4 On the issue of modifications, we don't do
5 modifications, and I wish that we could or that we
6 did. But, again, that would be something that if
7 we did, it's not going to count in any way. And at
8 this point we don't have the time or the resources
9 because of the other things that we're doing.

10 We actually have just started covering initial
11 hearings in all the major felony courts. We are
12 slowly rolling that out where we are going to have
13 an attorney at each initial hearing. That's
14 another time commitment for our attorneys, but we
15 don't get any sort of case count for that.

16 So our attorneys do, I think, an excellent job
17 with what they have, but we could always use more
18 attorneys, more time, which we can only have if we
19 have less cases and less things to do.

20 JUDGE TINDER: So if a probationer comes back,
21 indigent client, wants a modification of the terms,
22 your office says, "Sorry. We don't do those. You
23 have to do that yourself"?

24 MS. PITTS: We generally don't do
25 modifications. I personally sometimes will do them

1 for a client, if I have time, but sometimes the
2 time is not there.

3 JUDGE TINDER: Other questions?

4 PROF. SCHUMM: About covering initial
5 hearings, what does that entail? Does that entail
6 being able to talk to the person ahead of time?
7 Jill had mentioned sort of what it used to be like
8 in juvenile versus what it is now. Are you able to
9 get appointed, able to do things at the initial
10 hearing, or is it just you are able to be there and
11 start doing your work later?

12 MS. PITTS: We'll talk to the clients ahead of
13 time, obviously trying to find out if they are
14 asking for a PD or not, go over the charges, go
15 over the penalty ranges, go over the rights with
16 them. We are asking the judges then to do the
17 indigency determination first, as opposed to a lot
18 of judges will go through everything else first and
19 do the indigency determination last.

20 And so once they do that and are more
21 acquainted, they are with the client throughout the
22 rest of the hearing. If the court will allow us to
23 waive formal reading, we can do that. We can ask
24 for a bond hearing. If we believe there is a
25 probable cause issue, we can address that.

1 PROF. SCHUMM: And the bond hearing is later?
2 There is no way bond can be addressed at that time?

3 MS. PITTS: It depends on the offense. If it
4 is an offense with a victim, then the court judges
5 are generally not going to address bond at that
6 moment. Otherwise, it would probably be a
7 judge-by-judge thing as to whether they are willing
8 to address it at that moment or set it for a bond
9 hearing.

10 JUDGE TINDER: Other questions?

11 Thank you, Laura.

12 From the National Association of Mental
13 Illness, Marianne Halbert. Good afternoon.

14 MS. HALBERT: Good afternoon. Thank you for
15 the invitation to speak to you today. My name is
16 Marianne Halbert. I'm the criminal justice
17 director at NAMI Indiana, National Alliance on
18 Mental Illness. We are a nonprofit that advocates
19 for the improvement in the lives of people impacted
20 by mental illness as well as their family members.

21 I was formerly a public defender in Marion
22 County. It's so nice to see a lot of my colleagues
23 that I used to work with here today. And in that
24 role for 14 years I represented only clients with
25 serious mental illness. Luckily, they have a

1 unique specialized position there just to really
2 focus on that.

3 I represented people at involuntary civil
4 commitment hearings as well as in what is the PAIR
5 program, which is our pretrial mental health
6 diversion program that a group of us developed. So
7 the last seven years, as criminal justice director
8 at NAMI Indiana, my role is to try to reduce the
9 number of people with mental illness in jails. We
10 also have a help line where we get a lot of calls
11 from people from across the state.

12 Part of the concern I wanted to share with you
13 today, we hear from a lot of, it seems to be
14 particularly mothers who call, and they have a
15 loved one in the jail. And fortunately we don't
16 hear many complaints about Marion County because we
17 have a really robust system there. But it seems,
18 the impression is a lot of public defenders in the
19 smaller communities don't understand mental
20 illness. They don't understand the impact that
21 that might have on a person they are representing.
22 They don't want to hear information about it, and
23 they want to just sort of treat it business as
24 usual.

25 I'm probably preaching to the choir when I say

1 that there is an overrepresentation, a
2 disproportionate number of people with mental
3 illness in the criminal justice system as opposed
4 to the general population, and that they spend five
5 times longer in jail on average than people without
6 mental illness.

7 So I think having just a basic understanding
8 of mental illness and some core competencies in
9 that regard as a public defender is critical. You
10 can't really engage in public defense and not have
11 clients with mental illness, even if that's not
12 something you are comfortable with.

13 I know you guys have a lot of different issues
14 you are going to be looking at, but as far as
15 representing clients with mental illness, I hope
16 that part of what comes out of this task force is
17 finding ways to make sure that every public
18 defender understands how to represent a client with
19 mental illness.

20 JUDGE TINDER: Would you go to our website and
21 look at the resources we've got listed and see if
22 there is some publication that NAMI has or some
23 other organization that would be helpful to us to
24 give us a background about the effects of mental
25 illness on indigent defendants?

1 MS. HALBERT: Yes. I would be happy to.
2 Thank you.

3 MR. LANDIS: What other resources would public
4 defenders need to be effective in identifying,
5 screening mental illness?

6 MS. HALBERT: I think, first of all, just a
7 basic understanding of what the major mental
8 illnesses are. A lot of attorneys, unfortunately,
9 don't even understand what schizophrenia is, or
10 what's happening to a client when they are
11 experiencing symptoms like that, let alone other
12 things like mania, symptoms of PTSD or TBI. So I
13 think just a basic understanding, an overview of
14 major mental illnesses, and then digging deeper
15 into that in terms of how that might have impacted
16 their behavior at the time of the commission of the
17 offense and how that would impact their
18 representation throughout the course of the process
19 while they are resolving the case one way or the
20 other. So I think it's a few different levels that
21 we want to tackle there.

22 MR. LANDIS: I'm just trying to identify, I
23 mean, it's difficult to say we are going to take
24 1400 public defenders and like that make them
25 experts. Is there some way to bootstrap that into

1 saying if they have these amount of resources, this
2 kind of additional, whether it be social workers or
3 mental health experts that can help when they think
4 there is somebody that they don't know if they are
5 just in an acute state or there is a mental illness
6 or something, what would be the good next step to
7 take as a resource to say can you screen this
8 client to see if you think there is a mental
9 illness?

10 MS. HALBERT: I think that that's a really
11 good point. I think the challenge will be
12 apparently in the smaller communities, where you
13 may not have a social worker that you have access
14 to. So that may be something you guys can come up
15 with, maybe some sort of regional resource or
16 something. Because I do think that we don't want
17 public defenders diagnosing clients, obviously. We
18 need a mental health professional to do that. But
19 at least to understand, as you said, to identify is
20 this someone I should have screened or assessed and
21 look a little deeper potentially even before going
22 as far as entertaining a defense of mental
23 incompetence, if that's appropriate depending on
24 what they're seeing.

25 Yes. I think to have some opportunity for

1 that assessment to guide what direction it goes
2 would be helpful.

3 JUDGE TINDER: I suppose there are sentencing
4 dimensions as well that mental health factors weigh
5 into.

6 MS. HALBERT: Yes. And I think there is a lot
7 of confusion about that, too, because I think some
8 people think that if the client gets a guilty with
9 mental illness, they'll go to a state hospital or
10 get treatment. There are some people who think we
11 can have the judge order them to get treatment if
12 they go to prison, and you can't really do that.

13 So I think there is a lot of misunderstanding
14 about, as you said, the sentencing and the
15 consequences of various resolutions to the case in
16 terms of what's going to happen to the client.

17 PROF. SCHUMM: I have a question about
18 something that we've shared in our lives.
19 Representing people -- not in our lives.

20 MS. PITTS: Yes. You did an appeal for me on
21 a client.

22 PROF. SCHUMM: So does NAMI, do you have an
23 understanding of other counties, how things work?
24 In Marion County someone is always going to get a
25 public defender. In other counties it's my

1 impression that sometimes judges don't appoint
2 public defenders. Even though the statute says
3 right to counsel, I think some think that means you
4 have to be indigent. Which it's really hard, if
5 you have a commitment sought against you, to go out
6 and hire a lawyer, if you don't have the resources
7 to do it.

8 Do you get calls about that, or do you have an
9 impression of how that works in other counties?

10 MS. HALBERT: I have tried to find out how
11 that works in other counties. I actually contacted
12 Indiana Court Services before they changed their
13 name to see if they tracked civil commitments in
14 different counties and how that works. I've not
15 gotten -- they have a lot of great people there who
16 work on different things, but I don't think that's
17 something that's been made available.

18 I don't know the answer to that. I would like
19 to know that as well because I have heard I think
20 the same impression that you have that not everyone
21 who goes through involuntary commitment gets to
22 have a lawyer.

23 PROF. SCHUMM: Could you talk just real
24 briefly, since we have a court reporter here, of
25 why it's important, having done those things, that

1 someone have a lawyer at a civil commitment?

2 MS. HALBERT: Absolutely. Even though a civil
3 commitment is not criminal in nature, there are a
4 lot of things about it that certainly feel criminal
5 in nature. They can be handcuffed while they are
6 being brought there, depending on the security
7 people that are transporting them.

8 Their civil liberty interests are at stake.
9 They can be involuntarily held at a local acute
10 assisted care facility and not be allowed to leave.
11 They can be sent to a state hospital where they can
12 be held indefinitely; although there are periodic
13 reviews.

14 They can be forced, if a judge finds that the
15 evidence warrants it, they can be forced to take
16 medication that they may not want, that may have
17 side effects for them. They can be forced to
18 undergo electroconvulsive therapy or ECT
19 treatments.

20 So there are a lot of things where they can
21 have their liberty, their freedom, their bodily
22 integrity, those rights impacted. So it's really
23 important to have a public defender who can help
24 advocate to make sure that they get due process
25 through that proceeding.

1 JUDGE TINDER: You used an acronym, TBI.

2 MS. HALBERT: Traumatic brain injury.

3 JUDGE TINDER: Traumatic brain injury.

4 MS. HALBERT: Yes. I apologize.

5 JUDGE TINDER: All right. Other questions?

6 Very helpful. Thank you. Again, any written
7 submissions when you see our website, we would be
8 delighted to receive anything.

9 MS. HALBERT: I'll follow up with that. Thank
10 you very much. I appreciate it.

11 JUDGE TINDER: All right. Ann Sutton.

12 MS. SUTTON: I don't really have any formal
13 remarks, but I guess I can answer a few questions
14 on what's gone on before me today. Regarding CLEs,
15 we do usually open up our CLEs at least twice a
16 year. We have a couple on holidays.

17 JUDGE TINDER: How would other PDs know what
18 you are offering and what is available?

19 MS. SUTTON: The Public Defender Council has a
20 LISTSERV, and we send out notice on the LISTSERV.
21 Sometimes we charge and sometimes we don't. If we
22 do charge, it's usually \$25 for three credits,
23 which is pretty reasonable.

24 Then misdemeanors, the caseload under
25 commission standards is 300. We think that that

1 would probably be fine. What we would be asking
2 for is the legislature to include that in their
3 commission standard reimbursement.

4 I think right now our misdemeanor attorneys
5 are probably averaging around 400 a year, with the
6 exception of traffic court, which is over a
7 thousand, but that's another whole separate issue.

8 If we are fully staffed in misdemeanor court,
9 I think 300 would be extremely doable for our
10 attorneys. We sort of changed the way we represent
11 misdemeanors. We used to just have attorneys
12 assigned to a day, and whatever cases came in,
13 that's what they have. That means you could come
14 in and have a file handed to you and do a bench
15 trial of a client you never met before.

16 We no longer do that. Our attorneys are
17 assigned clients, and those are their cases. And
18 when the clients return, they have the same
19 attorney.

20 We've seen quite a rise, and our appellate
21 division can attest to this, quite a rise in trials
22 being done in misdemeanor court where previously
23 that was pretty unheard of.

24 And then the initial hearing project, we are
25 starting to do them in major felony, but back in

1 October we started doing initial hearings in all
2 misdemeanor and Level 6 cases in Marion County.

3 I was just recently at a Criminal Term
4 meeting, and the courts have declared a success
5 because our jail numbers have gone down
6 significantly with the assistance of public
7 defenders in an initial hearing courtroom and able
8 to secure people's release at an earlier time.

9 We're also able, we have a social worker in
10 the initial hearing court, and that person is able
11 to identify mental health issues, addiction issues.

12 We've been able to help people with placement.
13 We get a lot of people arrested, sadly, from group
14 homes. We are able to figure out another group
15 home for them to go to because we don't want them
16 let out onto the street to fend for themselves
17 because they are just not able to.

18 We've been able to argue cases. We've had
19 cases dismissed in there. The courts have issued
20 sort of a pretty hardline rule about how much time
21 the prosecutors are going to have to file charges.
22 And if they are not filing them within that time,
23 we've had cases actually dismissed.

24 So far preliminarily it's been, I would say
25 it's going in a positive direction. Our controller

1 has just allowed us to hire, has promised to hire
2 another attorney and another social worker and
3 hopefully another support staff person down there.

4 It's very fast paced, and it's a very heavy
5 volume, and right now we just have two attorneys
6 and a social worker. So that's not enough staff
7 for that. But it has been very positive, and I
8 would advocate for that for the entire state.

9 You know, we have a lot of hopes and wishes
10 with that initial hearing court. We would like to
11 be able to direct refer people in the
12 problem-solving court from that. One of the big
13 problems with problem-solving court is there is
14 quite a delay for people who need to be in
15 problem-solving court to get from their regular
16 court into those programs. So we kind of see the
17 initial hearing court as a possibility of a means
18 to get people directly into those problem-solving
19 courts.

20 So I know you have many committees within this
21 task force. I would love it if you formed a
22 committee to come over and look at Marion County.
23 We've done a lot of really great things.

24 JUDGE TINDER: We do plan to visit a number of
25 public defender offices, and certainly the largest

1 one is one we would definitely be looking at.

2 MS. SUTTON: Well, we would welcome you. We
3 have social workers on staff that we have found
4 really alleviate a lot of issues regarding clients
5 and client contact and resolving client issues and
6 go towards more of a holistic client representation
7 model.

8 We would love for you to come and see our
9 appellate division, our juvenile division.
10 Everybody is doing remarkable work. We're limited
11 by funding, and that's where we need help.

12 JUDGE TINDER: Other questions? Thank you.

13 As Mr. Shema alluded to, I ran a
14 problem-making court. Judge McKinney had a
15 problem-solving court.

16 Lucy Frick.

17 MS. FRICK: Hi. Thanks for having me. I'm
18 Lucy Frick. I'm now in my third year of practice
19 with the Marion County Public Defender Agency. I
20 have been in Major Felony Court 3 since Labor Day
21 weekend. I am going to change my comments a little
22 bit. I had some prepared, but I don't think it's
23 actually need now, because I know it's going in the
24 right direction. I agree with what everyone has
25 said so far.

1 It's really hard to articulate probation.
2 Probation is so labor intensive. I don't know how
3 to organize it better. I know we need more time.
4 Probation is more sort of you fly by the seat of
5 your pants the day you're assigned to probation,
6 and you hope it works out.

7 I end up having so many clients that aren't
8 going to contest delegation, but they aren't people
9 who really should be violated. I had a client who
10 was a 17-year-old kid on home detention, so we
11 could, of course, talk about the problems of
12 putting teenagers on home detention, but he was
13 definitely not compliant.

14 Is that really who you want to assign to DOC,
15 a 17-year-old kid who just like can't deal with
16 home detention, doesn't have support at home, is a
17 teenager with a teenager brain?

18 I could tell when I was talking to him in jail
19 it was almost like talking to -- it was just wild
20 talking to a teenage kid about why he can't comply
21 with home detention. So I had to work on him, and
22 how do you do that? My job was to do it, but I
23 also had to take time from my regular caseload to
24 help keep the 17-year-old kid out of prison.

25 So probation is just so labor intensive. It's

1 the least amount of time, it's the time that I feel
2 I'm willing to prepare. I come to court, do my
3 best. And I think every single person has
4 basically a complex problem that needs a lot of
5 work. And it's really hard to feel like I'm
6 actually serving my probation clients. Probation
7 is rough.

8 I also echo Laura Pitts' comments about
9 misdemeanors. I could carry on about misdemeanors.
10 I really like misdemeanor court. My first year as
11 an attorney in misdemeanor court, I had a thousand
12 clients that year. I may have had more. That's a
13 rough estimate. I had to count them one time for a
14 motion I was filing actually, and I was shocked by
15 how many I had at one time. And misdemeanors, boy
16 do they matter.

17 At all levels they matter, but at the
18 misdemeanor level I was amazed at how many of my
19 clients, they kind of get by. They basically have
20 housing. They have some kind of work. But just a
21 day or two in jail, and they lose their job. Then
22 they don't have money for housing or health care.
23 Misdemeanors really are catastrophic for people
24 that are trying to get by.

25 JUDGE TINDER: And there could be potentially

1 deportation results.

2 MS. FRICK: Yes, of course.

3 JUDGE TINDER: And domestic violence
4 convictions can result in a felony, carrying a
5 firearm, et cetera.

6 MS. FRICK: Right. I've only been in major
7 felony for a couple of months, and they're easing
8 me in on Level 5, which is real nice. So my
9 colleagues that are in major felonies can speak
10 more to those issues.

11 To me, when I was in misdemeanor court, it was
12 breathtaking how many people are there. And it's a
13 colossal waste of time and taxpayer dollars. And
14 there are so many people that get swept up in
15 misdemeanors.

16 Does everyone know that this is going on? I
17 mean, I have so many clients, group home clients,
18 people who have really just untreated trauma, and
19 so now we're criminalizing them for not being able
20 to access meaningful therapy.

21 Drug abuse, boy, I could carry on about that.
22 We are treating it like it's a one-time deal. You
23 can get rehabilitated, and you're fine. Really, we
24 should be treating it like a chronic disease, which
25 is what it is. It's an addiction you have to be

1 dealing with for the rest of your life.

2 So misdemeanor court, to me it was
3 breathtaking. That experience was really wild to
4 see how many people get swept up so fast in the
5 criminal legal system and then ultimately never see
6 justice, and then they have a conviction.

7 And if you're getting people who it's their
8 first offense, they're screwed. In Indiana, I say
9 lovingly, it's pretty darn contorted. So the folks
10 who get swept up on a misdemeanor charge, like a
11 marijuana charge, or you know what, petty theft, I
12 don't care about someone who stole something from
13 Walmart. I don't think that person should be
14 excluded from the social network because they have
15 a misdemeanor theft.

16 I can't tell you how many clients that say to
17 me, well, now I've got a theft, so I'm never going
18 to get hired again. And so then is it any surprise
19 that that person reoffends and reoffends and
20 reoffends? We're cutting them out of access to any
21 type of meaningful life.

22 So I really feel very, very strongly about
23 misdemeanors. And I think our attorneys at that
24 level need more support, fewer clients.

25 Our social workers are worth their weight in

1 gold. They have been awesome. I have a lay
2 understanding of mental health issues, but that's
3 not my training. My background is in the law. Our
4 social workers are wonderful at that level.

5 I could carry on. Does that help?

6 JUDGE TINDER: Thank you. Any questions?

7 PROF. SCHUMM: So 300 was a number put out.
8 Do you think you could have handled 300 clients in
9 a year, misdemeanors?

10 MS. FRICK: If I had had 500 a year, that
11 would have felt like a dream. A thousand was
12 bananas.

13 MR. LANDIS: How many of your, roughly a
14 percentage of your misdemeanor clients stayed in
15 jail because they couldn't make bond?

16 MS. FRICK: Most of them. I mean, I was
17 really lucky I was before a judge who really cared
18 about our clients, and I felt her to have a true
19 social worker heart. So she let a lot of people
20 out, appropriately so. But I was amazed when I
21 would talk to my colleagues in different courts how
22 many people are in custody for -- you would be
23 shocked. They are there for marijuana. They took,
24 you know, a CD from Walmart. You'd be surprised
25 how many people stay in custody in misdemeanor

1 court.

2 MR. LANDIS: I wouldn't, but I wanted you to
3 say that for the record.

4 MS. FRICK: And the other thing I'll say about
5 misdemeanor court that I think should change is
6 that I think that misdemeanors are a trap. I think
7 people get hooked. And I also was shocked by how
8 many people go on probation.

9 No one in misdemeanor law should be on
10 probation. Our clients can't afford it. It's a
11 trap. Probation I think is trying their best but
12 they -- I say this kindly. I don't want to point
13 fingers. I've had so many clients feel like they
14 are in an adversarial relationship with their
15 probation officer.

16 At the misdemeanor level, why are we wasting
17 taxpayer money? Somebody has a marijuana
18 conviction, why are we putting those people on
19 probation? Then, again, they can't afford it.
20 They miss a drug test. You know, they are people
21 who have stressful lives and untreated trauma, and
22 so of course they smoke pot sometimes. Are we
23 shocked that those people need some kind of escape?

24 So then they fail a drug test that they are
25 getting charged for, and then they get revoked on

1 probation, and they go to home detention. And then
2 they screw up on home detention for all those
3 reasons, and then they go to jail for a
4 misdemeanor. We shouldn't be putting people, maybe
5 the drunk driving, but basically everything else in
6 misdemeanor court shouldn't be on probation. So
7 that's that.

8 JUDGE TINDER: Any questions? Thank you so
9 much. And the point that you had intended to, you
10 are certainly welcome to submit in written form as
11 well.

12 MS. FRICK: Sure. Thank you.

13 JUDGE TINDER: Mr. Mark Russell from the Urban
14 League. I'm sorry, Mr. Russell, I didn't call you
15 on earlier. You had not made our list somehow.

16 MR. RUSSELL: No, that's okay. I do
17 appreciate the accommodation. It's a crazy week.

18 Members of the task force, my name is Mark
19 Russell, director of education and advocacy for the
20 Indianapolis Urban League. We were founded in 1965
21 by the late Sam Jones, who I was privileged to have
22 hire me several years ago.

23 The reason we're testifying today is we have
24 some serious concerns about the state of the public
25 defender system in Indiana. For those of you that

1 may not know, the Indianapolis Urban League, on
2 behalf of our thousands of clients, we have a
3 variety of human services that we offer.

4 One of the major ones is workforce
5 development. We just had a new class start this
6 week. There were about 90 people that came to the
7 orientation for that ten-day session. We do ten of
8 those a year. Anywhere between 40 and 60 percent
9 of our clients have criminal records. We do not
10 serve folks that have sexual offenses or violent
11 criminal histories; so reintegration is extremely
12 important to us. We have a network of over 130
13 employers that we work with to help people
14 transition back.

15 And we also recently became a center for
16 working families, so we are not just doing Band-Aid
17 approaches to serve the needs of these clients.

18 So I wanted to lay that background yet before
19 I make these other comments in that we're very
20 cognizant that all lawyers and their competencies
21 are not created equal. We're very cognizant of the
22 fact that income, or more specifically the lack
23 thereof, should not drive access to justice and to
24 competent equitable legal representation. The need
25 for structure, uniform, and ongoing training with

1 universal standards, and to have a means of
2 evaluation for those providing legal services needs
3 to be addressed. And we also need to keep in mind
4 that many of the offenders that we serve, for
5 example, struggle with literacy. You give them the
6 test of adult basic education, many of them are
7 coming back. And I believe my friends from
8 Community Action and from P.A.C.E. would verify
9 that many folks function between fifth and eighth
10 grade levels of literacy. Obviously, that has
11 major implications for being competently
12 represented in the legal system. So we want to be
13 aware of that.

14 And we should also note the fact that we are
15 concerned that the current system accepts and
16 indeed encourages by default systematic
17 discrimination driven by income. And we know that
18 income -- I'm not an attorney, but I know many of
19 them -- we know that income --

20 JUDGE TINDER: We won't hold that against you.

21 MR. RUSSELL: Okay. We know that income is
22 not a protected class under our civil rights and
23 other laws but, again, we are concerned that the
24 current system accepts and encourages
25 discrimination by income, by class. But it also

1 has a disproportionate impact on persons of color
2 and non-English speakers, as well as the poor.

3 So we would highlight the fact that there are
4 real consequences for low income, non-English
5 speaking Hoosier citizens, who can lose their job,
6 lose their homes, lose their spouse, lose child
7 custody because they are caught up in legal
8 complications that are not addressed by competent
9 counsel. This is especially true in misdemeanor
10 cases, which many of our folks have drug
11 convictions, and they don't have access to legal
12 representation because they are misdemeanors.

13 So we just want to say I looked up several
14 resources, but probably the best I saw as a lay
15 person was this article from Indiana Lawyer that
16 talked about and quoted several of you in there.
17 So we wholeheartedly agree with their
18 recommendations, particularly limiting the
19 conflict-of-interest potential, having a set
20 training curriculum for public defenders.

21 Limiting the ability of indigent folks to have
22 access to competent attorneys is one of ours. And
23 we would like to see an independent system that
24 prohibits contracts and financial disincentives to
25 providing effective representation. We don't

1 believe that a public defender should be attorneys
2 for hire, subject to the whim of judicial
3 discretions or indiscretions that may negatively
4 impact their clients.

5 JUDGE TINDER: Mr. Russell, would you do me a
6 favor of checking out our website to see the
7 resources we've got listed, and if you're aware of
8 publications of the Urban League or other
9 organizations that we're lacking that we ought to
10 have as a resource?

11 MR. RUSSELL: I'd be glad to do that. We are
12 not a legal services provider. We are a human
13 services provider.

14 JUDGE TINDER: Sure. Things we ought to know
15 that you don't see and feel should be on there,
16 please let us know about them, and we can get them.
17 Also, any additional supplemental responses you
18 would like to make, we would love to receive them
19 in writing.

20 MR. RUSSELL: We will get something in writing
21 to you. And we do want to commend you for taking
22 this time to hold this important forum and paying
23 attention to it. We live in a state constantly
24 where we're told local decision-making is the best,
25 that government which is closest is the best and

1 most sensitive. But we cannot continue to hold up
2 justice and remain blindfolded as an ideal, if
3 we're not ready, willing, and eager to commit the
4 resources to make it a reality. So we thank you.

5 JUDGE TINDER: Thank you.

6 Task force members, any questions for
7 Mr. Russell?

8 MR. LANDIS: Thanks for coming.

9 JUDGE TINDER: Thank you so much.

10 Rachel Roman-Lagunas.

11 MS. ROMAN-LAGUNAS: Thank you for being here
12 today. I'm happy to be here. I'm an attorney
13 representing juveniles in the Marion County Public
14 Defender Agency, and then I also work with the
15 Juvenile Defense Project with the Indiana Public
16 Defender Council.

17 So as part of the project we interviewed
18 children at the Department of Correction at
19 Pendleton, and we interviewed about 25 children.
20 And I wanted to just share their stories because
21 they are not here today to tell you what they want
22 in a good attorney. I'm going to use just a letter
23 instead of their name, obviously, and also just
24 kind of tell you about the stories and then some
25 overall themes that we saw.

1 To start with some good stories, "S" is a
2 17-year-old from a mid size county, and his lawyer
3 met with him multiple times, met with him in the
4 detention center and not just right outside court
5 before going in court. His lawyer talked to him
6 about the charges, talked to him about possible
7 placements that he could go to other than the
8 Department of Correction. His lawyer listened to
9 him about what he wanted to have happen on his
10 case, and he felt like his lawyer was on his side;
11 and probably because of that, he felt like the
12 outcome was fair.

13 "L" is a 16-year-old young man, and he was
14 also able to mention many things his attorney did
15 well. He said she talked to him. She talked to
16 his mother. She tried to get him into placement
17 other than the Department of Correction. She
18 talked about the strength of the evidence against
19 him. She explained possible outcomes. He
20 mentioned that, I quote, "She fought for me." His
21 advice to other attorneys: Try your hardest. Make
22 sure you know about your client. Make the
23 prosecutor see him as a person; that he was not
24 always like this.

25 So those were lovely to hear, but

1 unfortunately we talked to many clients who did not
2 have such a good experience with their attorney. A
3 couple of examples:

4 "E" is a 15-year-old boy in the Department of
5 Correction. He is from a large county, and he's in
6 the Department of Correction for a second time, and
7 he had two different defenders represent him
8 throughout his cases. And he said they would meet
9 with him, they would explain what would happen, but
10 they never argued for what he wanted to happen.

11 He believed that the attorneys were friends
12 with the judge, and he attributed them not arguing
13 or not making an argument to them being afraid to
14 talk in court. He honestly believed they were
15 afraid to make an argument because they would make
16 the judge, their friend, mad.

17 Obviously, he was in court quite a bit to see
18 this. He didn't believe they were on his side. Or
19 at least one of them he said he didn't believe was
20 on his side. His advice was to care about what
21 you're doing and don't be afraid to talk in court.

22 "C" is an 18-year-old from a large county, and
23 his case is interesting because he currently has no
24 legal guardian, and he is 18. But DOC wants to
25 release him to a person. He has no place to go

1 because his parents' rights were terminated when he
2 was very young, and his guardian, his grandmother,
3 who he was living with, passed away over the
4 summer.

5 So he doesn't know where he's going to go,
6 what's going to happen to him. He is 18. No DCS.
7 He has no attorney involvement. He said his
8 attorney said they would look for other places, but
9 never argued for one in court. And so because he
10 currently has no representation, he has no idea how
11 he's going to get released and where he will go.

12 17-year-old "M" said he just started declining
13 having an attorney because he said they never did
14 anything I wanted. He had multiple attorneys. He
15 said one of them asked for him to go to the
16 Department of Correction. Now, in juvenile court
17 that's maximum sentence. There's nothing worse
18 than that other than waiver to criminal court. So
19 an attorney asking for maximum sentence would be
20 pretty unheard of in criminal court.

21 He tried to argue for himself. He said he
22 needed job training and other services, and he felt
23 like the lawyers needed to be more knowledgeable.

24 And then finally "T" is a client I found
25 particularly compelling. He is 18. He normally

1 had an attorney sitting with him at his hearings.
2 However, at the hearing that he was sent to the
3 Department of Correction, his attorney wasn't
4 there. He doesn't know why the attorney wasn't
5 there. He didn't talk to his attorney about not
6 being there. The judge didn't continue the case
7 and went forward with the hearing, and obviously he
8 ended up in the Department of Correction.

9 He said his attorney didn't meet with him
10 outside the court, never talked to him about
11 potential defenses. And when he suggested a way to
12 handle his case, the lawyer told him he didn't know
13 what he was talking about. Which he may not have,
14 but that's not an appropriate response.

15 There are children who could say I had a good
16 attorney and a bad attorney. That's how they would
17 say it. They would say the qualities of a good
18 attorney: They met with me. They returned my
19 phone calls. They fought for me. They believed in
20 me. They knew me outside of just this court
21 setting.

22 And then the attorneys who also, twice we
23 heard from kids who said the attorneys called the
24 child by the wrong name; so they were too busy with
25 too many files that they didn't know their name.

1 To a child that's really offensive.

2 We also met with lots of children who felt
3 like the attorney knew what was best for them. So
4 the attorney would say, "Well, I know your
5 grandpa's beating up on you, so you need to go to
6 the Department of Correction. That's what's best
7 for you." That's not how a client feels, and
8 that's also not the lawyer's job.

9 We heard from many clients where the attorney
10 just told them to plead. Many clients didn't know
11 they had the option to go to trial, never talked
12 about evidence. Many clients plea at the initial
13 hearing or at a pretrial; so they're not really
14 having an attorney get discovery.

15 And, obviously, children who felt like their
16 attorney fought for them and were on their side,
17 they tended to say the system was fair; versus
18 children who didn't feel like they had an attorney
19 fighting for them did not.

20 So just a few other bits of advice. These are
21 quotes from the children: Build a relationship
22 with your clients. Fight the case. Don't go off
23 what the parents say. Work for the kid, not the
24 parents. Focus more on the kid's side in evidence.
25 Try to build a defense. And listen to their side

1 of the story, and don't have your mind made up
2 ahead of time. Finally, help us at least. We
3 don't know what is going on anyway, so at least
4 help us and explain.

5 And I'm happy to follow up in writing.

6 JUDGE TINDER: I would appreciate that. Let
7 me ask you this: What are the systemic things that
8 should be done, should be improved to make lawyers
9 perform more like the ones that "S" and "L" had,
10 and less like the ones that "E", "C", "M" and "T"
11 had? What are the generic or systemic things that
12 ought to be done and ought to be enhanced?

13 A. Well, an oversight because a lot of the attorneys
14 don't have much oversight, especially in juvenile
15 cases. So there needs to be a community that you
16 belong to, if you've received expertise in juvenile
17 law. We have a whole different code section, and
18 we have Adolescent Development, which is hours and
19 hours of training and should be incorporated into
20 probably almost every single case.

21 So you really need somebody who has expertise
22 in juvenile cases. And then with Adolescent
23 Development, how to talk to your client. Because I
24 cannot talk to a 16-year-old client the same way I
25 can talk to a 40-year-old man who has been in the

1 system for a long time.

2 First of all, we know that children ages 11 to
3 13 that we have in our system, one-third of them
4 are going to be incompetent. Then we know 14 to
5 15-year-olds, 40 percent of them are going to be as
6 incompetent as a mentally ill adult would be.

7 And so we need to have attorneys be able to
8 recognize that and not to say, "Well, they're
9 young. That's why they act like that." We need to
10 either explain better, or we need to ask the judge
11 for a competency hearing.

12 So I guess oversight and training. And then I
13 don't know what caseloads are around the county or
14 around the state, but making sure that caseloads
15 are reasonable because juveniles take more time.
16 It takes a lot more time to explain things to them.

17 MR. LANDIS: I'd like to follow up on that.
18 What kind of state oversight do you recommend?

19 MS. ROMAN-LAGUNAS: I don't know that I'm
20 equipped to answer that question. I know I've
21 missed a lot of the testimony. I apologize.

22 I think some kind of regional system. That
23 would make sense. I wouldn't want to take power
24 away from the current people who are doing it well,
25 but I guess I'm sure most people hope that they are

1 doing it well. So I really don't know if I'm
2 equipped to answer that question. Thank you.

3 JUDGE TINDER: Thank you.

4 I think we've reached the end of the list that
5 I have. We had another 15 minutes or so set aside
6 for today, but some of us will stay as long as
7 anyone has something they feel they need to tell
8 us, or we can follow up with you at a later time.

9 Is there anyone who has a presentation that
10 they would like to make or comments?

11 Yes, sir. If you could come up to the mike
12 and clue us in.

13 MR. GAY: Introduce myself.

14 JUDGE TINDER: That would be great.

15 MR. GAY: My name is Jack Gay. I am a
16 practicing attorney, have been for over 40 years.
17 I'm also the chairman of the Jennings County Public
18 Defenders Board.

19 Quite frankly, I'm appalled by the state of
20 public defense work in the State of Indiana. I
21 think we are at a unique time, though. I think,
22 well, I was shocked to hear that it was a surprise
23 that cost was a problem. But cost has always been
24 a problem in the public defense work.

25 I think, though, now is the time that we can

1 argue that it's not only cost effective to go to
2 full-time public defense offices throughout the
3 state, it's just so obvious to me that the social
4 costs associated with the drug addiction problem
5 and managing to divert from the criminal justice
6 system those people that don't need to be in it.
7 We have to recognize that many of these people are
8 ill. They made a bad choice. They became
9 addicted. And they are not going to get over it by
10 sticking them in jail. That seems to be our
11 answer.

12 Instead, I see people who sit in jail for
13 months, literally months, that haven't even met
14 their court-appointed attorney. That's
15 unacceptable. If we can get them in and out of
16 jail in two or three days, and that's possible in a
17 lot of cases, if we can get them into
18 rehabilitation, if we can follow up on them, we can
19 make the public defender's office pay for itself
20 many times over.

21 I think the most conservative estimate I've
22 seen is that it costs about 40 percent of the cost
23 of incarcerating someone to treat them for their
24 addiction. That in and of itself would pay for the
25 cost of the public defenders.

1 In Jennings County the county council and
2 county commissioners are pushing to build a new
3 jail. We are going to do away with our 19-year-old
4 jail that was going to last us forever because it's
5 at double its capacity. Jennings County can't
6 afford \$25 to \$40 million for a jail. They need to
7 spend that money elsewhere.

8 Drug rehabilitation works. I don't want to
9 leave it at opioid addiction because we've got a
10 huge meth problem down there too. But the key of
11 all this is managing to get people out of the
12 criminal justice system, the long-term effects of
13 which everybody in this room I'm sure is aware.
14 They can't get jobs. They can't pay child support.
15 They can't take care of their families. All of
16 that falls on the taxpayers.

17 We need to create a system where people get
18 represented from the moment they are brought into
19 custody. That way we can avoid a lot of these
20 problems and push forward to returning these people
21 to a productive life.

22 And I have seen these people go from being
23 drug addicts, from getting NARCAN two or three
24 times, to being very productive members of our
25 society. They go to work every day. They are

1 there on time. They work hard. They bring home a
2 paycheck. They take care of themselves. That's a
3 big difference from where they are now.

4 I think now is the time to push for this, and
5 I would urge you to do so.

6 JUDGE TINDER: Mr. Gay, you mentioned that you
7 are kind of an early starter in your career here,
8 about four decades into it.

9 MR. GAY: Yes.

10 JUDGE TINDER: That's a pretty good start.
11 And you're appalled at the present state of
12 indigent defense. Was there a time when it was
13 better?

14 MR. GAY: Well, I suspect there may have been,
15 but that was back 35, 40 years ago when public
16 defenders a lot of times were on a voluntary basis.
17 The judge says can you take this case for me. And
18 the judges seemed to be, or the lawyers who were
19 appointed that way seemed to get involved, and
20 without any kind of remuneration for it. They
21 would take it on as if it were a paying case and
22 represent these people to the fullest of their
23 abilities.

24 Now they get appointed. Maybe they wait until
25 they bring the client back from the jail weeks,

1 months later, and they haven't met them yet.
2 They've got a plea offer though. They don't really
3 have any idea what --

4 JUDGE TINDER: You're not suggesting that we
5 go back to the old voluntary system?

6 MR. GAY: No, not with today's caseload. I
7 quit doing public defense work after I had a
8 conspiracy to commit murder case, and I was getting
9 paid for it. But what I got paid was, when I
10 worked out the hours I spent on the case, it worked
11 out to be about \$5.43 an hour that I got paid. My
12 secretary wasn't going to live on that.

13 So, yes, there was a time when things were
14 better, but we can't do it with today's caseload.

15 JUDGE TINDER: So Jennings County participates
16 in the reimbursement program?

17 MR. GAY: We currently have ten part-time
18 judicially appointed public defenders, which is up
19 three from the start of last year. We went up
20 three in the middle of the year once they got a
21 supplemental appropriation. And I'm afraid we're
22 going to need to get some more because I was just
23 looking at the numbers on the report to your
24 commission, and we still have a number of attorneys
25 who are way over their caseload requirements.

1 So I have the county council and the county
2 commissioner there considering this plan, and we're
3 trying to move it forward. I think I have the
4 support of one judge, and I know I don't have the
5 support of the other judge in the county, and
6 that's going to make it a little difficult. But
7 I'm willing to push forward with it to try to get
8 people the representation they need.

9 JUDGE TINDER: What are the backgrounds of the
10 other board members? There are two other board
11 members in your county; is that right?

12 MR. GAY: One is the mayor of a small town in
13 the county, and the other one is a realtor.

14 JUDGE TINDER: Just overall, what do you think
15 of the board system, how it's being utilized to try
16 to put some independence between the judges and the
17 public defenders?

18 MR. GAY: In our county it doesn't really
19 work. The judges are the ones that deal with it.
20 I get to review the reports quarterly. I get to
21 hear the stories of the defendants. It's not a
22 good system.

23 I know Judge Webster in circuit court would be
24 happy to get rid of it because it takes up too much
25 of his time and his court reporter's time to deal

1 with it. And Judge Smith deals primarily in
2 misdemeanors, and I won't tell you what he had to
3 say about the commission. I'm afraid it would get
4 out in public.

5 JUDGE TINDER: Well, we can talk about that
6 off the record as well. What are the top three
7 things you think we could do to improve indigent
8 defense?

9 MR. GAY: I think we really need to go to
10 full-time public defenders. That's number one. It
11 needs to be supervised. There needs to be somebody
12 over it, and it needs to be fully staffed.

13 JUDGE TINDER: What do you think about the
14 notion of a regional office where there would be
15 multicounty responsibilities, not limited to what
16 Jennings County needs, but maybe the surrounding
17 counties as well?

18 MR. GAY: That's interesting because I had
19 that question presented to me by the county
20 council. I have a little bit of a problem with it
21 primarily because of the lawyers in their offices
22 and getting them to and from the courts. Jackson
23 County, a neighboring county to us, has a public
24 defender's office.

25 JUDGE TINDER: It's fairly new, isn't it?

1 MR. GAY: It's fairly new. It's been there a
2 couple of years now. It's fully staffed, I
3 believe. And it works very well there.

4 When they asked me about it, they were asking
5 if I would agree that we should go in with Jackson
6 County to do a public defender's office, and my
7 primary concern is getting the lawyers to court. I
8 don't want them to have to report to an office in
9 one county, and then go back to their own county to
10 represent their clients. And I'm afraid that's
11 kind of the operation that I see developing if
12 you've got a regional office.

13 Now, if there is a regional supervision of it,
14 that might be a different perspective on it.

15 JUDGE TINDER: Regional supervision of county
16 based attorneys.

17 MR. GAY: Yes.

18 JUDGE TINDER: What do you think prosecutors
19 offices would think about regionalization of the
20 defense function?

21 MR. GAY: You know, I haven't talked to the
22 prosecutor. I've talked to him about the public
23 defender's office, but not about the
24 regionalization. I have no idea what their idea
25 would be.

1 JUDGE TINDER: Very good. Other questions?

2 PROF. SCHUMM: How long have you been on the
3 board there?

4 MR. GAY: Since its inception 23 years, 22, 23
5 years ago.

6 PROF. SCHUMM: And so it's always been all
7 part-time people?

8 MR. GAY: Yes.

9 PROF. SCHUMM: Why did you all make that
10 decision? Because of the cost?

11 MR. GAY: It was because of cost. It's all
12 driven by cost, every decision that's made about
13 hiring. And it's a big deal to go to the county
14 council there and ask them to turn over some money
15 to represent criminals. They haven't caught the
16 idea that they are not criminals until they've been
17 convicted. It's just like pulling teeth.

18 So everything has been developed around this
19 idea of the county not wanting to spend much money.
20 Originally their pay was extremely low. The Public
21 Defender Commission has caused them to push it up
22 to at least now they can pay their office expenses
23 with it, and then they turn to their private
24 practices to make money. That's essentially the
25 way it works down there.

1 JUDGE TINDER: Are there lawyers in Jennings
2 County who would want to be full-time public
3 defenders?

4 MR. GAY: I think I could find enough to do
5 it. We don't have enough lawyers to fill the
6 part-time jobs. We're hiring lawyers from out of
7 the county to come in and be part-time public
8 defenders. Like I said, there's ten of them now.
9 I think there's only about ten practicing attorneys
10 in the county right now.

11 JUDGE TINDER: I don't know this to be a fact,
12 but I could imagine it to be a fact, when you take
13 92 counties, there might be a fair number of
14 counties where there are no people who would want
15 to be a full-time public defender.

16 MR. GAY: I think that's probably true. I
17 would guess there's probably one or two in most
18 counties that would be willing to do that, but it's
19 a hard, hard decision for them to make to do that.
20 The pay is not that great. But there are people
21 that fill the prosecutor's office, so we ought to
22 be able to find the people who will do the public
23 defender's office.

24 JUDGE TINDER: Despite the low pay, you get to
25 spend a lot of time in jail, so there's that.

1 MR. GAY: It's always enjoyable to hear those
2 doors clink shut behind you.

3 JUDGE TINDER: But you get to go home. Other
4 questions?

5 MR. LANDIS: You have ten part-time public
6 defenders. Who supervises the quality of the work
7 that they do?

8 MR. GAY: I don't think anybody does. I mean,
9 I don't, and I would probably be the one most,
10 closest to it. It's just not something that's
11 feasible. I've got ten public defenders running
12 around from four different counties. It's hard for
13 me to keep track of what their caseloads are, let
14 alone what they're doing. I know some of them have
15 some pretty bad nicknames down at the jail.

16 JUDGE TINDER: Any questions?

17 JUSTICE GOFF: Thank you.

18 JUDGE TINDER: Thanks for your interest, and
19 don't be surprised if we're back in touch with you.

20 MR. GAY: I'm available just about any time.
21 Thank you much.

22 JUDGE TINDER: Anyone else? Yes, back here.

23 MS. EDMANDS: Hi. My name is Heather Edmands.
24 I am the assistant division chief of the CHINS/TPR
25 Division at the Marion County Public Defender

1 Agency. Marion County, as I understand it, is the
2 largest public defender agency in the state, and
3 right now CHINS/TPR is the largest division. We
4 currently have 23 full-time attorneys, 14 part-time
5 attorneys, 8 paralegals, 8 social workers, an
6 office manager, a partridge in a pear tree.

7 We've been growing by leaps and bounds within
8 the past three to four years. When I started with
9 the office nine years ago, it fluctuated between
10 five and six of us. And we were all very busy, and
11 we all had about 125 cases.

12 Now we have 37 in various levels of
13 engagement. I think at one point last year I had
14 170 cases. Almost everybody in my office has about
15 150 cases, and we're still all very busy. I think
16 we do have the advantage of our size. We have the
17 advantage of the rest of the agency and kind of
18 mentality trench work area camaraderie. I think
19 that helps a lot.

20 JUDGE TINDER: You probably have a higher
21 experiential level than you may have had a few
22 years?

23 MS. EDMANDS: I do, yes.

24 JUDGE TINDER: But your office does as well.

25 MS. EDMANDS: The office does as well. I

1 mean, we've all kind of grown together for the most
2 part to the credit of the other 36 attorneys that
3 I'm working with. Everybody wants to be there.
4 Most of the people who are working in my office are
5 not working in CHINS/TPR because it's a stepping
6 stone to something else. They are deeply
7 impassioned and want to do this work.

8 Being a PD is a bit of a calling. I think
9 somebody else noted we all probably ask ourselves
10 at various times why we're doing this. But
11 CHINS/TPR really is very much a calling because
12 there is a certain amount of social work involved
13 in all of the legal work that we're doing.

14 Because of the explosion of cases, and also
15 because within I think five years ago, my numbers
16 might be off a little, but we did go over to
17 CHINS/TPR being under commission standards, we have
18 by necessity developed training. We've developed
19 our own six-hour education course, which we've done
20 once and then revised once; so we have a newer one
21 that is what allows our attorneys to become
22 CHINS/TPR qualified.

23 One of the commission standards for
24 termination of parental rights cases, you have to
25 sit through another termination of parental rights

1 case with an attorney who's done one before, before
2 you can be pushed out on your own, which helps a
3 little bit. But, also, we have a significant
4 amount of informal training, just being able to
5 bounce ideas off somebody else, finding out if
6 somebody else has encountered these problems
7 before.

8 And from speaking with other CHINS/TPR
9 attorneys around the state, I don't know that a
10 statewide CHINS/TPR system would work simply
11 because my practice in Marion County is going to be
12 vastly different than someone's practice in
13 Vanderburgh County, in Lake County, in Allen
14 County, even in Hamilton County.

15 JUDGE TINDER: In terms of volume? In terms
16 of caseload?

17 MS. EDMANDS: In terms of volume, in terms of
18 caseload, in terms of how things are handled. As
19 much as our eight courts that we currently have
20 running out of 25th and Keystone vary from room to
21 room and judge to judge, the way things get handled
22 in other counties are very different there, too.

23 JUDGE TINDER: Your clientele is probably more
24 diverse than, say, in Noble County?

25 MS. EDMANDS: I would imagine so, simply as a

1 numbers game. But the way cases are funneled
2 through, just anecdotally speaking, with others,
3 it's different in Marion County in terms of whether
4 there is somebody -- I represent my clients from
5 the time I'm appointed. We are appointed at the
6 initial hearing, but we don't appear until that
7 first pretrial. And I represent them until it's
8 done, until they either have their kids back, their
9 kids are in a guardianship, or we've gone through a
10 termination trial.

11 On average, I was looking it up, the cases
12 that I've closed within the last year and a half
13 were open on average 713 days. The cases I have
14 open right now have been open on average 1,068
15 days. These people, I've been working with them
16 for two or three years.

17 In other counties sometimes they start either
18 at the initial hearing or at that first pretrial,
19 and once they get through disposition, they are
20 done. They are not guiding their clients through
21 the actual completion of services, which is the key
22 part of the CHINS case. Once the child is
23 adjudicated, if the child is in need of services or
24 not, some counties, that's it. And I think the
25 representation, as difficult and emotionally

1 challenging as it can be helping a client through
2 all of their problems until the case closes, I
3 think clients glean a lot, they glean a lot more
4 from that, because otherwise it's them against the
5 world.

6 If they still have a public defender who is
7 working with them as they are going through drug
8 treatment, as they are going through domestic
9 violence classes, as they are going through
10 parenting classes, as they are jumping through all
11 the hoops that are being put before them by the
12 Department of Child Services in the State of
13 Indiana, to have somebody who can help advocate,
14 who can help make sure that what is being put
15 before them is reasonable.

16 Even something as simple as saying, you know,
17 my client is ordered to do drug screening. My
18 client doesn't live on a bus line, and the drug
19 screening agency is on the west side of town, and
20 they live on the east side of town. They can't get
21 there. Somebody to advocate and make sure that
22 they are not painted into a corner is essential.

23 It is very emotional work on both sides, both
24 for the client and for the attorneys involved; so
25 it does take time. Right now Marion County is

1 running 38 dockets. We are very busy with those 38
2 dockets. That's across eight courts. Plus
3 everybody has off-docket trial settings, also
4 mediations and settlement conferences. So we are
5 running around like mad, but that's not going to
6 stop at any point of time.

7 Rather than perhaps a statewide system, I
8 think what might be more helpful, given that a lot
9 of the smaller counties don't have the resources
10 that Marion County does, is to have, perhaps as
11 part of the regional system that you mentioned,
12 statewide resources. The ability to have colloquy
13 between attorneys who have been there before and
14 come out the other side. How do you deal with a
15 client who desperately wants to get into rehab but
16 can't. How do you deal with a client who is a
17 domestic violence victim and none of the services
18 are getting through, or they are still in a
19 dangerous relationship.

20 So just to have an ability to bounce things
21 around, to have statewide training, to have
22 statewide resources I think would be very helpful.

23 JUDGE TINDER: Questions?

24 MR. LANDIS: I'm just curious. You're saying
25 you don't recommend a statewide system, but you

1 recommend statewide resources, statewide training,
2 and maybe regional offices. So that could be a
3 statewide system.

4 MS. EDMANDS: That could be a statewide
5 system.

6 MR. LANDIS: A statewide system means many
7 things.

8 MS. EDMANDS: Right. It could take many
9 forms.

10 MR. LANDIS: I'm interested because you have
11 so much experience in a very high-performing
12 office, what do you think is the best way to try to
13 improve that quality in the other counties that
14 don't have the same resources, don't have the same
15 experience? How can we boost the quality up in
16 those counties?

17 MS. EDMANDS: It could be something as simple
18 as a LISTSERV or just the ability to discuss cases,
19 traveling-lunch-and-learn type of thing. Because
20 much like in the appellate world, CHINS has changed
21 a lot, even just within the last two or three
22 years, let alone in the last seven.

23 The policies that you're seeing from the
24 Department of Child Services, from the guardians ad
25 litem, are changing it feels like on a day-to-day

1 basis sometimes. So just to have community I think
2 could be a very, very helpful way to go about it.

3 JUDGE TINDER: Other questions? Thank you so
4 much.

5 I noticed there was one other person who had
6 their hand up, but I'm either going to have to give
7 Ms. Andrews a break -- she's been at this a long
8 time -- or we need to wrap it up. Other than this
9 young lady, does anyone else want to make a
10 presentation? If so, raise your hand.

11 Why don't we see if we can wrap this up on
12 this presentation.

13 MS. RUST: Hi. My name is Abbie Rust. I am
14 the social work supervisor for the Marion County
15 Public Defender Agency. I did not plan on
16 speaking, but then some of my co-workers said some
17 nice things about our team, and so I just wanted to
18 offer some input from our perspective to this
19 issue.

20 So we have 19 social workers across three
21 divisions in the agency. And for the sake of time,
22 I'll kind of keep it brief to our criminal social
23 workers. And so a lot of the work we do is
24 consulting with the attorneys on issues related to
25 our clients, so mental illness, substance abuse,

1 their indigency needs.

2 And those attorneys who take the time to
3 really kind of learn the skills that we have and
4 mimic those are the ones that I see have the most
5 positive effect and interactions with their
6 clients. They really, I think, then model for
7 other attorneys how to work with these individuals.
8 Because like someone said earlier, this is not a
9 skill-set that is necessarily taught in law school.
10 And that's wonderful, and we're happy to continue
11 offering that.

12 But also there are a lot of people being
13 served, and we are not always available to assist
14 all the time. And so those PDs, who are able to
15 follow our lead with some of this stuff and some of
16 the skills that we have, create a huge impact. And
17 they have an understanding. So whenever they are
18 able to speak with prosecutors, go to court when it
19 comes to sentencing, things of that nature, they
20 have an understanding of the barriers that we can
21 speak to very well. They are learning to be able
22 to speak to that and advocate for their clients in
23 that way.

24 So I don't know if that would, I'm saying all
25 this to say I don't know if that means it would be

1 a nice standard to have some general education on
2 these areas that are most commonly seen among the
3 clients that are being served by public defenders.
4 We try to incorporate training in our offices on
5 some topics that we see that come up frequently,
6 and we are very lucky that we have a lot of
7 attorneys that take advantage of that.

8 But that's in our agency. So it makes me
9 wonder about what's happening with those other
10 counties, if that's something they could benefit
11 from as well.

12 JUDGE TINDER: Is there a written description
13 of how the Marion County office functions, the
14 various divisions? Has anyone ever put together
15 sort of a working paper on how that office is
16 structured, interacts?

17 MS. RUST: Yes, uh-huh.

18 JUDGE TINDER: And so if Kim or Kathleen would
19 be in touch with who in that office, we could get
20 that in writing? If we don't already have it. I
21 don't think we do.

22 MS. CASEY: We don't, but I'll get in touch
23 with Ann and make sure we do.

24 JUDGE TINDER: Questions anybody?

25 MR. LANDIS: Based on what you've seen in the

1 Marion County office, how important do you think it
2 is to have social workers in a public defender
3 office?

4 MS. RUST: Huge. It's hugely important. From
5 my perspective as a social worker, we have the
6 ability, I mean, we are trained to not only be able
7 to identify needs within individuals, we're also
8 taught different perspectives in school than what
9 attorneys are. So we come at things from a
10 strength-based perspective usually, and so we are
11 looking at what are the things that are going to
12 help this person to succeed based on the strength
13 ideology.

14 We are also trained to identify barriers and
15 how that affects maybe not just one person but a
16 system in itself, family systems. Systems can look
17 like their probation, how are these needs, I mean
18 kind of what Heather just spoke to, drug testing
19 being offered and no one taking the time to
20 consider they live on the east side, they are not
21 on a bus line, they need to go to the west side.
22 How do you problem solve around that.

23 I think it's huge for identifying, it's huge
24 for consulting with attorneys with what we kind of
25 see.

1 We get calls weekly or emails weekly that say
2 I have this client. I'm not real sure what's going
3 on. Can you come and sit with us and give your
4 impression. And so even just with that, it's kind
5 of a quick in and out to meet with a client, but
6 then that attorney has some additional knowledge
7 and information that we have that hopefully they
8 can use to better defend that person.

9 MR. LANDIS: Thank you.

10 JUDGE TINDER: All right. Thank you.

11 Thank you all for your time, your thoughts,
12 your patience. Please visit our website. It will
13 be emailed, the link will be emailed to you. Keep
14 the cards, letters, emails, and comments coming.
15 We will get back in touch with you.

16 We have additional listening sessions starting
17 in, is it Fort Wayne?

18 MS. CASEY: Yes. February 15 is our next one
19 in Fort Wayne.

20 JUDGE TINDER: And our next board meeting or
21 task force meeting is April 20 at ten o'clock, is
22 it, in the public defender office?

23 MS. TANDY: It's on the website.

24 JUDGE TINDER: It will be on the website.

25 Thank you all. Have a great weekend.